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DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 44-01

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : GRACE A. KILBANE
Administrator
Office of Workforce Security

SUBJECT : Simplified Tax and Wage Reporting System (STAWRS) Draft Report, Harmonized Wage Code for Unemployment Insurance (HWC/UI)

1. **Purpose.** To transmit the Draft Report of the HWC/UI dated June 20, 2001, and to request comments on the report.

2. **Background.** STAWRS is a multi-agency partnership between the Department of Labor, Department of the Treasury, Internal Revenue Service, Office of Management and Budget, Small Business Administration, Social Security Administration, various States, and private organizations. STAWRS' mission is to reduce the tax and wage reporting burden on employers while improving the efficiency and effectiveness of government operations. To achieve its mission, STAWRS established three major initiatives: Single Point Filing, Streamlined Customer Service, and Simplified Requirements. The Harmonized Wage Code project supports the Simplified Requirements initiative and focuses on reducing the tax and wage related burden on employers by recommending harmonization of the federal and state employment tax laws. These laws include federal and state income tax withholding, the Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), and state unemployment insurance (UI) tax provisions.

3. **Draft Report.** The HWC/UI Draft Report presents recommendations for harmonization of the UI, FUTA and FICA laws. It does not include federal and state income tax withholding which are being done as a separate report. The recommendations are presented in the form of a blueprint for legislation and are intended for consideration by state legislatures and the federal government. The report points out that adoption of the HWC/UI would reduce the tax and wage reporting burden on employers by making employment tax laws less complex, allowing for easier interpretation of regulations, instructions, and procedures, simplifying record keeping, and lowering operating costs.

4. **Action Required.** State Administrators are requested to provide copies of the attached draft report to the appropriate staff. The HWC/UI Draft Report will be presented and discussed in detail at the National UI Tax Conference being held in Sparks, Nevada, during the week of July 23-27. Staff will have the opportunity to

ask questions and provide input at that time. Written comments may be provided to Rett Hensley, National Office Tax Team, 200 Constitution Ave. N.W., Room S4231, Washington, D.C., 20210, by August 31, 2001.

5. **Inquiries.** Questions should be directed to Rett Hensley at (202) 693-3203, or by email at ehensley@doleta.gov; or Bill Whitt at (202) 693-3219, or by email at bwhitt@doleta.gov.

Attachment

Simplified Tax and Wage Reporting System (STAWRS)

DRAFT Report
Harmonized Wage Code for Unemployment Insurance (HWC/UI)

July 02, 2001

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EXECUTIVE SUMMARY

The Harmonized Wage Code for Unemployment Insurance (HWC/UI) Report was developed by the HWC project. The project seeks to reduce employer burden and promote government efficiency by developing simplified employment tax laws to replace the multitude of laws employers face today. It addresses the concerns of private employers, trade organizations, payroll service providers, and federal and state agencies, that the current employment tax laws are complex and inconsistent. Therefore, understanding and complying with those laws is confusing and expensive. Harmonized provisions could significantly reduce the tax and wage reporting burden placed on employers. *Harmonization* refers to the process of developing a set of uniform definitions for wages, employment, and other tax- and wage-related terms.

The HWC/UI Report is the third in a series of reports that includes the Targeted Harmonized Wage Code (THWC) Report and the Harmonized Wage Code for Income Tax Withholding (HWC/ITW) Report. The THWC Report, updated in August 2000, focuses on harmonizing the 14 payroll components most commonly used by small employers. The HWC/ITW Report, released in January 2001, focuses on harmonizing the federal and state income tax withholding laws. Both reports are available on the Simplified Tax and Wage Reporting System (STAWRS) Web site: www.employers.gov/stawrs/hwc/index.htm. Harmonization of employers= filing requirements is currently being researched and will be addressed in a separate report entitled Harmonized Filing Dates.

The HWC/UI Report outlines the recommendations of the HWC project to blend the Federal Unemployment Tax Act (FUTA), Federal Insurance Contributions Act (FICA), and the state unemployment tax laws into one harmonized code. The HWC/UI Report includes background information on the HWC project, a description of the development of the HWC/UI, the potential impacts related to a harmonized wage code for UI, and the resulting recommendations, in the form of a blueprint for legislation; hereafter referred to as a blueprint. To arrive at those recommendations, the project conducted an in-depth analysis of the 51 (50 states, plus the District of Columbia) state UI laws and the FICA and FUTA, and over 375 associated components. Each state law and its related components were compared to the federal employment tax laws and components, and to those of other states.

Many discrepancies exist among state UI laws, FICA, and FUTA. Therefore, it is difficult to establish consistency across components. However, the benefits of achieving consistency across federal and state jurisdictions far outweigh the difficulties. By simplifying UI tax laws, employers can save time and money, two valuable commodities to a business owner. Federal and state agencies also can benefit through improved customer service and the ability to operate more efficiently under a uniform set of laws.

The HWC/UI is offered for adoption by all jurisdictions. It is not the intention of the HWC project to mandate changes to state legislatures. Instead, the project has presented its findings for the HWC/UI in the form of a blueprint, to be considered and adopted by each jurisdiction. Ultimately, the HWC/UI may be merged with the ITW. This possibility will be researched by the National Conference of Commissioners on Uniform States Laws (NCCUSL).

1. INTRODUCTION TO THE HARMONIZED WAGE CODE PROJECT

1.1 Background

The Simplified Tax and Wage Reporting System (STAWRS) Program is a multi-agency partnership among the Department of Labor (DOL), Department of the Treasury, Internal Revenue Service (IRS), Office of Management and Budget (OMB), Small Business Administration (SBA), Social Security Administration (SSA), various states, and private organizations. STAWRS= mission is to reduce the tax and wage reporting burden on employers while improving the efficiency and effectiveness of government operations. To achieve its mission, STAWRS established three major initiatives: Single Point Filing, Streamlined Customer Service, and Simplified Requirements. The HWC project supports the Simplified Requirements initiative, and focuses on reducing the tax- and wage-related burden on employers by recommending harmonization of the federal and state employment tax laws. These laws include two revenue provisions: federal income tax withholding (ITW) and state income tax withholding, and three social welfare provisions: the Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), and state unemployment insurance (UI). Developing a harmonized body of employment tax laws could dramatically simplify revenue and UI codes, including related filing and payment dates.

The HWC project supports the IRS= strategic objectives of revolutionizing how taxpayers transact and communicate with the IRS by simplifying employment tax laws and strengthening federal-state partnership in tax code reform. *Harmonization*, the process of developing a set of uniform definitions of wages, employment, and other tax- and wage-related terms, is a monumental undertaking that is achievable only through federal-state cooperation and support for legislative and administrative changes.

To achieve harmonization, the HWC project team discussed various concepts with states and employers. On the basis of their feedback, and the complexity of employment tax laws, the project team developed an incremental approach. The first task was to develop a Targeted Harmonized Wage Code (THWC), which addresses a subset of the 96 employment tax lawsCthe 51 state UI laws (50 states, plus the District of Columbia), 43 income tax withholding laws, the FICA, and the FUTA. That subset focused on the 14 components to which small employers are most often subject.

The next phase required the development of a harmonized wage code, but considerable differences distinguish the ITW and UI laws. Withholding of income tax is a means of helping taxpayers meet their income tax obligations by having the money paid throughout the year, rather than in one lump sum at tax-paying time. Income tax withholding also provides cash to federal and state governments on a regular basis, reducing borrowing costs. The FICA, FUTA, and UI provisions, in contrast, provide funding for the payment of insurance premiums and specific benefits, e.g., social security pensions and unemployment compensation. Because ITW and UI provisions serve such different purposes, the project divided the HWC into two separate codes and proposed two distinct blueprints. The HWC/ITW Report was completed in January of 2001 and may be viewed on the STAWRS Web site at employers.gov/stawrs/hwc/index.htm. Upon

completion of the HWC/UI Report, the project team will report on findings for harmonization of federal and state filing and deposit dates. The Harmonization of Filing Dates Report will be released later in 2001.

Ultimately, the UI tax laws and the ITW tax laws may be merged. The National Conference of Commissioners on Uniform State Laws (NCCUSL) is researching this possibility and will report on the feasibility of merging these two distinct sets of employment tax laws sometime in late 2002.

1.2 Purpose

The HWC/UI Report presents recommendations for harmonization of the UI, FUTA, and FICA laws at the federal and state levels. The recommendations are presented in the form of a blueprint for legislation and are meant for consideration by state legislatures and the federal government. Adoption of an HWC/UI would reduce the tax and wage reporting burden on employers by making employment tax laws less complex, allowing for easier interpretation of regulations, instructions, and procedures, simplifying record keeping, and lowering operating costs.

1.3 The HWC Project Team

The HWC project team consists of the Project Manager, Philip Corn, detailed from the IRS where he is Special Assistant for Employment Taxes in the Office of the Associate Chief Counsel, Tax Exempts and Government Entities; and Ronald Moore, technical consultant to the HWC project.

Written communications may be sent to:

Philip Corn, HWC Project Manager
Internal Revenue Service
W:E:SPS:STAWRS
1111 Constitution Avenue NW
Washington, DC 20224

or e-mailed to: Phil.Corn@irs.gov. Mr. Corn also may be reached by phone at (202) 874-0704.

1.4 The HWC Working Group

The HWC project is an ongoing effort that involves representatives from state government (revenue and unemployment insurance agencies), employers, trade associations, and federal agencies. Formed in 1996, the HWC Working Group meets quarterly to discuss development of project reports, implementation ideas, and marketing efforts. The working group provides input from the employer, state, and federal perspectives, which is important in the development of project goals. Appendix B contains a list of the HWC Working Group members.

1.5 The HWC Database

STAWRS created and maintains a repository of information relating to each state's degree of harmonization for each component of the employment tax laws. The repository is known as the HWC database, (or Athe database@). An on-line version can be found at employers.gov/stawrs/hwc/index.htm. For every state, the database characterizes each type of compensation as an instance of a match, partial match, no match, no provision, or not applicable to UI, FUTA, and FICA, and income tax withholding. Where appropriate, the database also includes the relevant law(s), or "supplemental authority," that led to a particular designation. The database served as a valuable tool for development of the HWC/UI blueprint.

2. DEVELOPING A HARMONIZED WAGE CODE FOR UI, FUTA, AND FICA

2.1 Background

The 50 states, the District of Columbia, and the federal government have a total of 96 employment tax laws. Within these 96 laws, there are over 500 components or provisions, approximately 75 percent of which are related to unemployment insurance. For any given provision, various jurisdictions may have differing definitions. At the state level, there is additional complexity because the income tax withholding and unemployment insurance tax provisions are administered by separate agencies. At the federal level, there is no uniformity when dealing with the FICA and FUTA.

The diverse state and federal laws governing wage taxes and withholding significantly increase employer burden. Every employer, large and small, private and public, profit and non-profit, must contend with these laws and provide accurate information to the tax authorities. Employers must maintain separate wage records for federal income tax withholding, state income tax withholding, FICA, FUTA, and state unemployment insurance taxes. In many cases, employers must report this information to government agencies at different times, on different forms, and on assorted media. This burden is compounded when employers have workers in more than one state, because many states have different legal or procedural requirements.

In addition, employment tax laws require government agencies to process the information reported, verify that the information complies with the laws, work with employers to correct reports that do not comply, and provide assistance to employers attempting to comply. The diversity in current laws and filing dates makes it difficult for government agencies to provide consistent, accurate, and timely service to their customers.

2.2 Scope

The HWC/UI encompasses FICA, FUTA, and the 51 state unemployment insurance tax laws, as well as selected non-wage definitions that address recommended areas.

2.3 The HWC/UI

Within the employment tax laws, *wages* means all remuneration for services unless specifically excepted. Correspondingly, *employment* means all services, unless specifically excepted. Any Awages@ or Aemployment@ not listed in the HWC/UI blueprint would therefore be subject to tax, provided that the criteria to determine employment tax liability is met. Three criteria are used to determine liability for employment taxes: the relationship must be that of employee and employer, the employee must receive Awages,@ and the services must constitute Aemployment.@

Once the project team had established the scope of the HWC/UI, it conducted an in-depth analysis of the 51 UI laws, and the FICA and the FUTA laws, including over 375 components, to understand how the UI, FICA, and FUTA laws relate to each

51 state and the federal UI, FUTA, and FICA laws were analyzed and compared.

other, and how harmonization could best be achieved. Components were included in the HWC/UI based on their frequency in the UI, FUTA, or FICA laws; their significance; and their potential to simplify current practices. Components that were found in only a few jurisdictions were not included.

Components were also examined to determine their effect on employers. Provisions that had large-scale effects were more likely to be included; provisions that applied to only a small segment of the population were more likely to be excluded. Unless otherwise noted, the rationale described above was used to analyze each of the code provisions.

The HWC project team considered areas that historically have received special attention Õ agricultural labor, the fishing industry, direct sellers, and real estate agents. The team=s analysis showed that the components that apply to agricultural labor are fairly unique. The rules are significantly different, and the tax forms are specialized. Therefore, agricultural labor provisions are not included in the recommendations. Conversely, while there are separate components for the fishing industry, the forms are the same, and the rules are fairly uniform throughout the country. Thus, the components with regard to the fishing industry were included. Finally, other special provisions that were not considered for inclusion in the HWC/UI are those provisions for direct sellers and real estate agents. Separate provisions provide that direct sellers and real estate agents are independent contractors, and independent contractors are outside the scope of the HWC project.

While the HWC/UI deals primarily with Awage@ and Aemployment@ definitions, the project team felt it was also necessary to go beyond these definitions to include other components, such as non-wage definitions and other provisions, where harmonization would also be useful. For example, Aeducational institutions@ are cited in several wage and employment definitions, so a uniform definition of Aeducational institution@ is useful for harmonization. Definitional terms are defined as a part of the HWC/UI blueprint and are recommended for inclusion.

2.4 Instances of ANo Provision@

Several jurisdictions have large numbers of Ano provisions@ associated with them (that is, instances of states that do not explicitly mention a component in their wage codes). Instances of "no provision" do not except the remuneration or service from employment tax liability. However, adoption of the provisions in the HWC/UI would exempt them.

2.5 Outlyers Defined

Dozens of components were identified that exist in only one jurisdiction. There are dozens more that exist in only two or three jurisdictions. These components, which exist in fewer than four jurisdictions, with a few exceptions, are referred to as outlyers. If a jurisdiction is to harmonize, it will need to address its outlyers. Ideally, jurisdictions should eliminate its outlyers in order to achieve harmony. Outlyers are listed in Appendix D.

2.6 Complexity of UI Laws

As previously stated, of the 96 employment tax laws, 51 relate to unemployment insurance. Of the over 500 components within the 96 laws, approximately 75 percent relate to UI. UI laws are complex, as they deal with the concepts of wages and employment. Within the concept of employment, there are exceptions, as well as specific inclusions with respect to employment laws. In addition, there is significant diversity among the state UI laws, as well as between the state and federal laws. Thus, there were many exceptions, inclusions, exclusions, and definitions that needed to be analyzed; and as a result, more recommended legislative changes (i.e., changes that must be approved by state legislatures) and administrative changes (i.e., changes that may be implemented through state taxing authorities) proposed to current law.

3. IMPACT OF A HARMONIZED WAGE CODE FOR UI

3.1 Benefits of an HWC/UI

Harmonizing the employment tax laws provides substantial benefits to employers and government agencies. Benefits include simplified recordkeeping for employers and easier interpretation of laws through uniform tax- and wage-related definitions (i.e., employer, wages, and employment). Other benefits include fewer and simpler regulations, instructions, procedures, and forms that require less data C employers would only need to perform one calculation to determine the amount of UI taxes owed, as opposed to performing different calculations for every state in which they do business. These benefits could result in significant burden reduction for employers.

Increased government efficiency should arise from the same factors that reduce employer burden. Concise provisions and regulations will result in more accurate interpretation and less time spent on report processing. Government agencies would also benefit by providing improved customer service to their constituents.

3.2 Potential Impacts of the HWC

The recent IRS restructuring and focus on customer service is mirrored by similar efforts in many jurisdictions. Virtually every state-level tax systems modernization effort has identified improved customer service as a goal. Every state that adopts all, or most, of the HWC/UI would take a giant step toward that goal; and the benefits of HWC adoption will almost certainly outweigh the costs for both employers and states.

The STAWRS Business Case provides projected costs, benefits, and returns-on-investment (ROIs) for the STAWRS Program and projects. For the HWC project, the estimates are based on adoption of the overall HWC, and are not divided into the HWC/ITW, HWC/UI, and the THWC. The ROI for HWC adoption is estimated at 77 percent for employers, and better than 24 percent for states. In other words, employers would see their tax and wage reporting burden significantly reduced. In addition, states can expect to realize over $24.00 in benefits, or cost savings, for every dollar they invest toward HWC adoption.

Each jurisdiction will have complete autonomy in the adoption and development of the HWC/UI. [However,] the benefits of HWC/UI adoption will almost certainly outweigh the costs in every jurisdiction.

To take advantage of these potential benefits, the HWC project encourages jurisdictions to adopt the HWC/UI, either wholly or in part. Jurisdictions will have complete autonomy in the adoption of the HWC/UI, as adoption of the HWC/UI concept could have an impact on a jurisdiction=s ability to make judgments about what to include or exclude in the HWC/UI. Equally important is a jurisdiction=s ability to administer programs without undue interference from other jurisdictions, both state and federal.

4. HWC/UI BLUEPRINT

The HWC/UI blueprint is presented for consideration by all jurisdictions, both state and federal. It is divided into seven sections which outline the following: wage and employment exclusions, wage inclusion items, employment inclusion items, outlyers, definitional provisions, provisions to be left alone, and outlyers that are neutral.

To understand the following recommendations, it is necessary to understand that liability for any of the federal and state employment taxes, with some statutory exceptions, depends on three criteria being met. These criteria are known as the three-prong test of wages and employment:

The worker must be an employee and not an independent contractor,
The services performed by the employee must constitute Aemployment@ as defined, and
The remuneration paid to the employee must constitute Awages@ as defined.

Thus, any provision that provides that certain remuneration is not Awages@ means there is no liability for the particular tax or taxes, even if the worker is an employee and is performing qualifying services. The analysis of all the provisions assumes this fundamental concept: if any particular service or remuneration is not included in the definition of Awages@ or Aemployment@ or if the worker is not an employee (as defined in the law), then there is no liability for the employment taxes. All the items in Section A, for example, will have the result that there is no liability for FICA, FUTA, and state UI in the HWC/UI.

A. Wage and Employment Exception Items

The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Awages@ and Aemployment@ that would *not* be subject to tax under the HWC/UI.

Meals and Lodging means the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under the Internal Revenue Code (IRC) '119.

Group-Term Life Insurance means remuneration paid in the form of group-term life insurance on the life of an employee except as provided in IRC '3121(a)(2)(C). This item is excepted from tax under FICA only.

Dependent Child Care means any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under IRC '129.

Employee Business Expense Reimbursement means advances and reimbursements of employee business expenses incurred on behalf of an employee under an accountable plan.

Health Insurance means any payment that is described in IRC '3306(b)(2).

Cafeteria Plans means any payment under a cafeteria plan (within the meaning of IRC '125) if such payment would be not treated as wages without regard to such plan and it is reasonable to believe that IRC '125 would not treat any wages as constructively received.

Moving Expenses means remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under IRC '217(a) (determined without regard to IRC '274(n)).

Fringe Benefits means any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under IRC '132.

Wages do not include non-cash payments outside the employer=s trade or business.

Wages do not include fees paid to corporate directors.

Wages do not include payments made by an employer, directly or indirectly, to an employee to supplement unemployment compensation the employee is receiving from the state.

Wages do not include payments for retirement for retirement for disability, other than payments the employee would have otherwise received.

Wages do not include payments to or from a pension or annuity plan described in IRC '3306(b)(5).

Wages do not include payment by an employer, without deduction, of employee FICA or employee UI taxes for domestic service in a private home or for agricultural labor.

Sick pay means only amounts received under a workman=s compensation law are excluded.

Wages do not include any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee work for such employer.

Employment does not include service to the Court as a juror.

Employment does not include services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution. In addition, wages do not include payment for services performed by an individual, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

Employment does not include services engaged on a boat under the Ashare of the catch@ provisions (IRC ' 3121(b)(20) of the FICA).

Employment does not include services performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut for commercial purposes, and (B) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States. This item is excepted from tax under FICA only.

Employment does not include service performed by an individual in the exercise of his or her duties as a member of the State National Guard or Air National Guard.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

Wages do not include payment for services which are performed by a nonresident alien individual for the period in which he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) Section101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q), as the case may be.

Employment does not include service as a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

Employment does not apply to services in the employ of a church or convention of churches; service in the employ of an organization operated primarily for religious purposes which is operated, supervised, controlled, or principally supported by a church or convention of

churches.

Employment does not include service performed in the employ of a foreign government, including service as a consular, other officer, employee, or a non-diplomatic representative.

Employment does not include service performed in the employ of an international organization.

Employment does not include service performed in the employ of an instrumentality wholly-owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof and if the Secretary of State shall certify to the Secretary of Treasury that the foreign government grants an equivalent exemption.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual in the exercise of his or her duties as an elected official.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual in the exercise of his or her duties in a position which is designated as (1) a major policy making, or (2) advisory position, or (3) a policy making position which does not require more than eight hours per week.

Employment does not include service performed by an individual in the exercise of his or her duties as a member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof.

Employment does not include domestic service performed in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of $1,000 or more in any calendar quarter in the current calendar year or preceding calendar year to individuals employed in such domestic service.

Employment does not include service performed in the employ of the United States Government or an instrumentality of the United States which is wholly or partially owned by the United States, or exempt from the tax applied to an employer by virtue of a law which specifically grants an exemption.

Employment does not include services performed by an individual as an employee or employee representative as defined in the Railroad Unemployment Insurance Act.

Employment does not include payment in the employ of a governmental entity performed by an individual in the exercise of his or her duties as an inmate of a custodial or penal institution.

Employment does not include payment for services performed as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

Employment does not include payment for services in the employ of a governmental entity as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

Employment does not include payment for services in the employ of a governmental entity in a facility conducted for the purpose of carrying out a program of providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

Employment does not include services performed by individuals employed by a State Department or recipient government entity through a summer youth employment program.

Employment does not include payment for service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by a program of unemployment insurance.

Employment does not include payment for service performed as a student nurse in the employ of a hospital or nurses= training school by an individual who is enrolled and is regularly attending classes in a nurses= training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four year course in a medical school chartered or approved pursuant to state law.

Employment does not include payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his or her dependents under a plan or system established by an employer which makes provision for his or her employees generally (or for his employees generally and their dependents) or for a class or classes of his or her employees (or for a class or classes of his or her employees and their dependents), on account of death. Any payment or series of payments by an employer to an employee or any of his or her dependents which is paid upon or after the termination of an employee=s employment relationship because of death, other than any such payment or series of payments which would have been paid if the employee=s employment

relationship has not been so terminated. Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died.

Wages do not include payments by the Court for serving on a jury.

Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from income under IRC ' 74(c) as an employee achievement award.

Employment does not include payment for services in the employ of a governmental entity in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earnings capacity is impaired by age or physical or mental deficiency or injury by an individual receiving such rehabilitation or remunerative work.

B. Wage Inclusion Items

The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Awages@ that *would* be subject to tax under the HWC/UI.

Wages include tips that are received while performing services that constitute employment and are included in a written statement furnished to the employer pursuant to IRC ' 6053(a)

Wages include any employer-provided vacation pay.

Wages include any employer-provided jury pay.

C. Employment Inclusion Items

The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Aemployment@ that *would* be subject to tax under the HWC/UI, provided that the three-prong test is satisfied.

Employment includes services performed by any officer of a corporation.

Employment includes any service, of whatever nature, performed outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer.

Employment includes services performed by legal and illegal aliens to the extent the service by citizens is covered.

Employment includes services on or in connection with an American vessel or American

aircraft under a contract of service which is entered into within the United States or during the performance of which, and while the employee is employed on the vessel or aircraft, it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

Employee includes any officer of a corporation.

An individual employed to assist another shall be deemed to be engaged by the employing unit, whether or not the individual was hired or paid directly by the employing unit, provided the employing unit had actual or constructive knowledge of the work.

D. Outlyers

This is a list of provisions that were found in four or fewer jurisdictions. For each outlyer, it is recommended that the involved jurisdiction(s) change their law to be in harmony with the HWC/UI. That is, the involved jurisdiction(s) should no longer except each item from Awages@ and/or Aemployment.@ Deletion of the provisions will result in the item no longer being an Aexception@ or Aexclusion,@ and the remuneration or services would become subject to tax, assuming the three-prong test is satisfied.

See Appendix D for a complete list of outlyers.

E. Definitional Provisions

The following definitional provisions should be part of the HWC/UI in order to promote as much harmony as possible. Many are pertinent in only a few jurisdictions, but do not affect other jurisdictions. This is not an exhaustive list; jurisdictions may wish to include other provisions.

American aircraft defined means an aircraft registered under the laws of the United States.

Circumstances when employment includes service on an American aircraft defined.

Circumstances when employment does not include services on an aircraft or vessel that is not an American aircraft of vessel defined.

Person defined shall include, without it being construed as a limitation, any individual, as well as any official of a corporation; member of a company, association, or estate; or civil, mercantile, partnership, or professional cooperative of any other nature.

Threshold test B the wages paid for domestic service are not counted for determining other threshold tests.

Death Benefits Defined.

Successor/Predecessor Rule Defined.

Pay period defined means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to an individual in the employ of an employing unit.

Week defined means a period of seven consecutive days.

Employee Defined.

F. Leave Alone Provisions

Harmonization of the provisions listed in this section would have a minimal effect on the *overall* goals of the harmonization, and are therefore not part of the HWC/UI. However, some of the provisions are significant for some *jurisdictions*. The provisions are listed here so that the affected jurisdictions may consider harmonizing them.

Wages paid for agricultural labor are not counted for determining other employer threshold tests.

Whether non-qualified deferred compensation is treated as wages depends on timing.

Employment includes service performed within and without the state, if the service is not localized in any state, but some part of the service is performed in the state and the base of operations is in the state. Also, if the service is directed not in any state in which some part of the service is performed, but the individual=s residence is in the state.

Employment includes services by a resident performed entirely without the state if no contributions are required to be paid to another state.

Employer includes an employing unit for which services are performed (1) in the employ of the state or any of its instrumentalities, or (2) any political subdivision or any of its instrumentalities, or (3) any instrumentality of any of one or more of the foregoing which is excluded from employment as defined in IRC ' 3306(c)(7).

Employment does not include services that would be covered under any other federal or state employment compensation system.

Employment includes services which are performed in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from employment as defined in ' 3306(c)(8) of the FUTA and the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks.

United States defined includes, in addition to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

Employer includes any employing unit for which domestic service in employment, as defined in state law, is performed.

American Employer means a person who is (A) an individual who is a resident of the United States; or (B) a partnership, if two-thirds or more of the partners are residents of the United States; or (C) a trust, if all of the trustees are residents of the United States; or (D) a corporation organized under the laws of the United States or of any state.

American Employer includes a corporation organized under the laws of the United States.

American Employer includes an individual who is a resident of the United States.

American Employer includes a partnership if two-thirds or more of the partners are residents of the United States.

American Employer includes a trust if all of the trustees are residents of the United States.

Third-party sick pay is included in wages.

Wages do not include payment for Indian fishing as described in IRC ' 7873.

Wages paid means the amount of wages which have actually been paid or which have been credited to or set apart for the employee so that payment and disposition is under the control of the employee.

Employment does not include services provided in one state to which contributions are required and paid under an unemployment law of any other state.

Employment includes all domestic service for a person in the operation and maintenance of a private home, local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer=s trade, occupation, profession, enterprise, or vocation.

Service which, because of an election, is employment, shall cease to be employment if election to terminate is approved.

Employment includes all parts of a person=s services if such services are deemed performed in the state by virtue of reciprocal agreements and does not include any service which, by virtue of such agreement, is deemed performed in another state.

Employment does not include services deemed performed in another state under a reciprocal agreement.

Employment Defined.

State defined includes the District of Columbia, Commonwealth of Puerto Rico, and the Virgin Islands.

American Employer includes the United States or any instrumentality thereof.

American Employer defined is an individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) who shall be considered as a citizen of the United States.

American Employer includes a limited liability company organized under the laws of the United States or of any state.

Employing unit includes a leasing employer or a temporary service employer that contracts to supply a worker to perform services for a customer or client.

Temporary employee means an employee of a temporary help firm assigned to work for clients of such temporary help firm.

Temporary help contracting firm is defined as any person who is in the business of employing individuals and, for compensation from a third party, of providing those individuals to perform work for the third party under the general or direct supervision of the third party.

Recapture Provisions Defined.

Common Paymaster Defined.

Employer includes all limited liability companies consisting of the same members, except that Aemployer@ means each limited liability company consisting of the same members if (1) each limited liability company maintains separate accounting records; (2) each limited liability company otherwise qualifies as an employer; (3) each limited liability company files a written request to be treated as an employer; and (4) the request is approved.

Employer includes an employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which if treated as a single unit with the other employing units or interests, or both, would be an employer.

All individuals performing services within the state for an employer who maintains two or more separate establishments within the state shall be deemed to be performing services for a single employer.

Employer includes a person who pays wages to an individual on account of sickness or accident disability.

Payer of third-party sick pay is an employer.

ABC test of employee defined; ABC test of employment defined; AB test of employee defined; AC test of employee defined.

The state and its instrumentalities shall be deemed to be employing units, and services performed in the employ of the state and its instrumentalities shall be deemed to constitute employment.

Governmental entities and governmental employment deal either with the definition of state governmental entities, service for state governmental entities, or treatment of state governmental entities as employing units.

Employer includes any employing unit which, having become an employer, remains an employer, and does not cease to be an employer.

An employing unit that employs individuals whose services must be covered by the UI laws of the state as a condition for approval of the UI insurance laws of the state will be considered to be an employer.

Employer includes an employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which if treated as a single unit with the other employing units or interests, or both, would be an employer.

Employer includes an employing unit for which services are performed which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an arrangement entered into by the division and an agency charged with the administration of any other state or federal unemployment compensation law.

Employing Unit Defined.

Employing Unit Defined.

Statutory employees as described in IRC ' 3121(d) and ' 3306(i), (other than an officer of a corporation) defined and the limitations to the definitions.

Employment does not include service not in the course of the employer=s trade or business performed in any calendar quarter by an employee unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service.

Employment shall include all parts of an individual=s services, performed within or without

the state, if the services are localized in the state.

Employer means with respect to any calendar year, any person who (A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or (B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

A licensed real estate agent is excluded as an employee of the person for whom the services are performed (IRC ' 3508).

Included/Excluded Rule defined means if service performed during one-half or more of a pay period is employment, then all the service is employment; if service performed during one-half or more of a pay period is not employment, then none of the service is employment.

Direct sellers are excluded as employees of the person for whom the services are performed (IRC ' 3508).

Employee service company means a leasing company or temporary help service company which contracts with clients or customers to supply workers and (1) negotiates with clients for time, place, type of work, working conditions, quality, and price of the services; (2) determines assignments or reassignments; (3) sets the rate of pay; (4) pays the workers from its accounts; and (5) hires and terminates workers. Issue 80 defines a temporary service or leasing employer in the same terms.

Employer is defined as any employing unit which has elected to become subject to unemployment provisions.

Any employing unit for which services are performed that do not constitute employment may elect to become an employer with respect to such services.

Employer includes, for the effective period of its election, any other employing unit that has elected to become fully subject to this chapter.

Employment includes service covered by an election.

Employing unit maintaining separate establishments means services within the state for any employing unit, that maintains two or more separate establishments within the state, shall be deemed to be employed by a single employing unit for all purposes.

Partial week defined states that if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week.

Service shall be deemed to be localized in the state wherever such service is performed in the United States, if such service is not covered under unemployment compensation laws of any other state and the place from which such service is directed or controlled is in the state.

Lessor employing unit means any independently established business entity that engages in the business of providing leased employees to a client lessee.

Institution of Higher Education Defined.

G. Exceptions that are not Outlyers

This is a list of provisions that were found in more than four jurisdictions. For each provision, it is recommended that the involved jurisdiction(s) change their law to be in harmony with the HWC/UI. That is, the involved jurisdiction(s) should no longer except each items from Awages@ and/or Aemployment.@ Deletion of the provisions will result in the item no longer being an Aexception@ or Aexclusion,@ and the remuneration or services would become subject to tax, assuming the three-prong test is satisfied.

Wages do not include dismissal payments that the employer is not legally required to make.

Wages do not include a scholarship benefit as described in IRC '117.

Wages do not include payments after the age of 65 if the employee did not work for the employer during the period for which such payment is made (stand-by payments).

Education Assistance Programs under IRC '127 are excepted from wages.

H. Outlyers that are Neutral

These are provisions that we recommend be Aleft alone.@ For greater harmonization, a affected jurisdiction should delete the provision; however not doing so will not have a great effect on total harmonization concepts and goals.

Total wages means the total wages paid or payable by an employer during the calendar year.

Wages do not include refunds required to be made by an employer under '421 of the Federal Medicare Catastrophic Coverage Act of 1988.

Employment does not include services performed by an individual who drives a taxicab, and whose compensation and written contractual arrangements are of the type rendering the operator not an employee.

Not in the course of the employer=s trade or business defined.

Employer shall not be determined to be an employer on the basis of covered employment performed more than four years prior to the year in which such determination is made, unless there is a finding that the records of such employment were fraudulent, concealed, or withheld for the purposes of escaping liability.

Contracts entered into for purposes of avoiding liability are unlawful. Employer status cannot be evaded.

Circumstances under which an employer shall be deemed to be the employer for contract or subcontract work performed that is part of the employer=s usual trade or business defined.

Employer includes any individual, legal entity, or employing unit described as a transferee.

5. CONCLUSION

The ultimate goal of the HWC/UI and the HWC project is to provide, through simplification and harmonization, the greatest benefit to the greatest number of employers and jurisdictions.

An important effect of working together for clarification and simplification of the employment tax laws is that the federal-state relationship is strengthened. By working together for tax code reform, the IRS, Department of the Treasury, Social Security Administration, Department of Labor, Small Business Administration, and the state revenue and unemployment insurance divisions, collectively seek to reduce employer burden.

The HWC/UI Report presents recommendations for harmonization of the UI, FUTA, and FICA laws at the federal and state levels. The recommendations are presented in the form of a blueprint for legislation and are meant for consideration by state legislatures and the federal government. Adoption of an HWC/UI would reduce the tax and wage reporting burden on employers and the government by harmonizing the employment tax laws. Harmonizing the employment tax laws would reduce complexity and allow for easier interpretation of regulations, instructions, and procedures, simplified record keeping, and lower operating costs.

The project team encourages jurisdictions to consider simplifying regulations, procedures, recordkeeping, and associated forms, by adopting the HWC/UI blueprint.

APPENDIX A
ACRONYMS & ABBREVIATIONS

ACRONYMS & ABBREVIATIONS

ABA	American Bar Association
APA	American Payroll Association
DOL	Department of Labor
FICA	Federal Insurance Contributions Act (Social Security and Medicare taxes)
FLS	Federal Liaison Services, Inc.
FTA	Federation of Tax Administrators
FUTA	Federal Unemployment Tax Act
HWC/ITW	Harmonized Wage Code for Income Tax Withholding
HWC/UI	Harmonized Wage Code for Unemployment Insurance (includes state UI, FUTA, and FICA)
IRC	Internal Revenue Code
IRS	Internal Revenue Service
ITW	Income Tax Withholding
NCCUSL	National Conference of Commissioners on Uniform State Laws
OMB	Office of Management and Budget
ROI	return-on-investment
SBA	Small Business Administration
SSA	Social Security Administration
STAWRS	Simplified Tax and Wage Reporting System
THWC	Targeted Harmonized Wage Code
UI	Unemployment Insurance

APPENDIX B
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APPENDIX C
HWC/UI BLUEPRINT WITH RATIONALE

To understand the following recommendations, it is necessary to understand that liability for any of the federal and state employment taxes, with some statutory exceptions, depends on three criteria being met. These criteria are known as the three-prong test of wages and employment:

The worker must be an employee and not an independent contractor,
The services performed by the employee must constitute Aemployment@ as defined, and
The remuneration paid to the employee must constitute Awages@ as defined.

Thus, any provision that provides that certain remuneration is not Awages@ means there is no liability for the particular tax or taxes, even if the worker is an employee and is performing qualifying services. The analysis of all the provisions assumes this fundamental concept: if any particular service or remuneration is not included in the definition of Awages@ or Aemployment@ or if the worker is not an employee (as defined in the law, there is no liability for the employment taxes. All the items in Section A, for example, will have the result that there is no liability for FICA, FUTA, or state UI in the HWC/UI.

A. The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Awages@ and Aemployment@ that would *not* be subject to tax under the HWC/UI.

Meals and Lodging - Issue 302.

Rationale: Included in the THWC. Payment for meals and lodging is not subject to employment taxes to the extent the payments are not includible in gross income for income tax purposes under IRC ' 119.

Group-Term Life Insurance - Issue 482.

Rationale: Included in the THWC.

Dependent Child Care - Issue 480.

Rationale: Included in the THWC. This is the provision described in IRC ' 129, dealing with dependent child care.

Employee Business Expense Reimbursement - Issue 309.

Rationale: Included in the THWC.

Health Insurance - Issue 481.

Rationale: Included in the THWC.

Cafeteria Plans - Issue 483.

Rationale: Included in the THWC. This includes any payment under a cafeteria plan (as defined in IRC ' 125) if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that ' 125 would not treat any wages as constructively received.

Moving Expenses B Issue 297

Rationale: Included in the THWC.

Fringe Benefits - Issue 484.

Rationale: Included in the THWC.

Wages do not include non-cash payments outside the employer=s trade or business - Issue 296.

Rationale: There are 25 matches on this issue; the remaining 28 jurisdictions have no provision. While the incidence of non-cash payments must be virtually non-existent, this is an important provision to harmonize.

Wages do not include fees paid to corporate directors - Issue 312.

Rationale: See discussion of Issue 455, page C-15.

Wages do not include supplemental unemployment benefits - Issue 308.

Rationale: There are 11 matches and 42 no provision jurisdictions. Supplemental unemployment benefits are payments made by an employer either directly or indirectly to an employee to supplement the unemployment compensation he/she is receiving from the state. In the jurisdictions that have Ano provision,@ it is likely that these amounts are not reported as wages for coverage or tax purposes

Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received - Issue 298.

Rationale: Although there are only nine matches and 44 no provision jurisdictions for this issue, it should be adopted in the HWC/UI. First, it would not follow that a person who is retired for disability would be eligible for unemployment payments or that the employer should pay unemployment insurance taxes on the disability retirement payments. The Ano provision@ jurisdictions most likely follow the federal rule.

Wages do not include payments made to or from pension and annuity plans described in IRC ' 3306(b)(5) - Issue 294.

Rationale: This exception was adopted as part of the THWC; see the THWC Report.

Wages do not include employer payment without deduction of employee FICA or employee UI taxes for wages paid for domestic service in a private home or for agricultural labor - Issue 295.

Rationale: There are 36 matches, 11 partial matches, one no match, and five no provision jurisdictions. In the case of the 11 partial matches, the exception applies to FICA, not just employer payments, without deduction for domestic service or agricultural labor. At one time, FICA excluded all employer payments without deduction. Congress, however, changed the law to allow the exception only for domestic service in a private home and for agricultural labor.

Sick pay B only amounts received under a workman=s compensation law are excluded B Issues 76 and 292.

Rationale: This exception was adopted as part of the THWC; see the THWC Report.

Sick pay after six months is excluded from wages B Issues 77 and 293.

Rationale: This exception was adopted as part of the THWC; see the THWC Report.

Employment does not include service to the Court as a juror - Issue 422.

Rationale: There are 45 matches, including the one jurisdiction that excepts jury pay from wages. There are eight no provision jurisdictions. However, these eight jurisdictions probably follow the rule stating that jury pay is not subject to reporting.

Employment does not include service by an individual under the age of 18 in the delivery of newspapers - Issues 386 and 402.

Rationale: There are 41 matches, eight no provision jurisdictions, and four partial matches on this issue. The provision is recommended for adoption because so many jurisdictions have this exception.

Employment does not include services engaged on a boat under the Ashare of the catch@ provisions - Issue 405.

Rationale: In many jurisdictions, the Ashare of the catch@ fishing issue is moot. However, for those jurisdictions where fishing is a significant industry, harmonization would be desirable. Note that not all the major fishing jurisdictions have this provision. Matches in fishing jurisdictions are Alaska, Georgia, North Carolina, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin. In practice, many employers simply follow the federal rule regardless of whether the state has this exception.

Employment does not include services engaged in fishing under the Aten net ton@ rule - Issue 404.

Rationale: This rule, to a large extent, is superseded by the Ashare of the catch@ rule and today has little application. Notwithstanding its limited application, harmonization would benefit the fishing industry.

Employment does not include service performed by an individual in the exercise of his or her duties as a member of the State National Guard or Air National Guard - Issue 412.

Rationale: There are 47 matches and six no provision jurisdictions. This is a suitable issue for harmonization.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency - Issue 413.

Rationale: There are 48 matches and five no provision jurisdictions. This is a suitable issue for harmonization.

Employment does not include services performed by aliens under F, J, M, or Q visas - Issue 406.

Rationale: Although there are only seven matches and 46 no provision jurisdictions, this is not the type of employment states would want to treat as taxable, i.e., aliens admitted on a temporary basis. The project team will have to verify this, but these services would not be taxable for UI purposes in most jurisdictions notwithstanding the absence of a specific statutory provision excepting it as employment.

Employment does not include service as a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order - Issue 409.

Rationale: All 53 jurisdictions are a match; this issue is suitable for harmonization.

Employment does not apply to services in the employ of a church or convention of churches; service in the employ of an organization operated primarily for religious purposes which is operated, supervised, controlled, or principally supported by a church or convention of churches - Issue 408.

Rationale: There are 50 matches, one partial match (FICA), and two no provision jurisdictions (Hawaii and Montana). The FICA will be a problem, because FICA will apply unless a church exercises a timely election to opt out of coverage. Given the controversy this provision caused when enacted, it is unlikely that Congress would be willing to address it. It is also likely that the two Ano provision@ jurisdictions exclude such services. One should try to harmonize the states, if they are not in fact in harmony, no matter how FICA is treated.

Employment does not include service performed in the employ of a foreign government, including service as a consular, other officer, employee, or a non-diplomatic representative - Issue 398.

Rationale: All 53 jurisdictions are a match; this issue is suitable for harmonization.

Employment does not include service performed in the employ of an international organization - Issue 403.

Rationale: Although there are only nine matches and 44 no provision jurisdictions, all or most of the Ano provision@ jurisdictions exclude such service from employment even though they do not have specific statutory provisions containing such an exception. This is not the type of employment the states would want to treat as taxable.

Employment does not include service performed in the employ of an instrumentality wholly-owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof and if the Secretary of State shall certify to the Secretary of Treasury that the foreign government grants an equivalent exemption - Issue 399.

Rationale: All 53 jurisdictions are a match; this issue is suitable for harmonization.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual in the exercise of his or her duties as an elected official - Issue 410.

Rationale: There are 50 matches, one partial match, and only two no provision jurisdictions. However, FICA should be excluded from harmonization.

Employment does not include service in the employ of a governmental entity if such service is performed by an individual in the exercise of his or her duties in a position which is designated as (1) a major policy making, or (2) advisory position, or (3) a policy making position which does not require more than eight hours per week - Issue 414.

Rationale: There are 48 matches, one partial match, and four no provision jurisdictions for this issue. FICA should be excluded from harmonization.

Employment does not include service by an individual in the exercise of his or her duties as a member of a legislative body or judiciary - Issue 411.

Rationale: There are 48 matches, one partial match, and four no provision jurisdictions for this issue. FICA should be excluded from harmonization.

Employment does not include domestic service performed in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of $1,000 or more in any calendar quarter in the current calendar year or preceding calendar year to individuals employed in such domestic service - Issue 391.

Rationale: There are 49 matches and four partial matches, one of which is FICA. There cannot be complete harmonization of this issue due to the recent changes made and the controversy that surrounded the FICA changes in the law. It is not feasible to attempt to change the laws again. In fact, the Social Security Subcommittee was directed to the different treatment that could result in liability for FICA and FUTA and they chose to ignore it. Therefore, while harmonization of state UI is recommended, no recommendation will be made to conform the FICA provision.

Employment does not include service performed in the employ of the United States Government or an instrumentality of the United States which is wholly or partially owned by the United States, or exempt from the tax applied to an employer by virtue of a law which specifically grants an exemption - Issue 395.

Rationale: All 53 jurisdictions are a match with the exception of FICA, which is a partial match. This issue is suitable for harmonization.

Employment does not include services performed by an individual as an employee or

employee representative as defined in the Railroad Unemployment Insurance Act B Issue 396.

Rationale: There are matches for all 53 jurisdictions, including FICA and FUTA. This issue is suitable for harmonization.

Employment does not include services by an inmate of a custodial or penal institution B Issue 418.

Rationale: There are 52 matches and one no provision jurisdiction. This issue is suitable for harmonization.

Employment does not include services performed as an insurance agent or solicitor if compensated solely by way of commissions B Issue 401.

Rationale: There are 45 matches, one partial match, and seven no provision jurisdictions. This issue is suitable for harmonization.

Employment does not include services as part of an unemployment work-relief or work-training program financed in whole or in part by governmental assistance B Issue 417.

Rationale: There are 50 matches and three no provision jurisdictions (one of which is FUTA). FUTA does not apply in this instance since most governmental assistance financed programs are directed to nonprofit organizations.

Employment does not include services in a facility conducted for the purpose of carrying out a program of providing work for individuals who cannot be readily absorbed in the labor market B Issue 416.

Rationale: There are 50 matches and three no provision jurisdictions (two of which are FICA and FUTA). These facilities are probably governmental, and as such, under IRC ' 3121(b)(7)(F)(i), the services would not be employment. Also, as governmental services, they would not be subject to FUTA.

Employment does not include services performed by individuals employed by a State Department or recipient government entity through a summer youth employment program - Issue 449.

Rationale: There are 50 matches and three no provision jurisdictions (two of which are FICA and FUTA). See the explanation for Issue 416 above. It is recommended that this exclusion be uniform in the HWC/UI (with the result that this type of employment would be excepted for FICA and FUTA purposes).

Employment does not include services performed by a student in the employ of a school,

college, or university if such service is performed by a student who is enrolled and regularly attending classes at such school B Issue 397.

Rationale: Every jurisdiction is listed as having the provision. The database compares the state provisions to IRC ' 3306(b)(10), but this provision has other parts to it such as services by a patient of a hospital. As a result, if the state provisions did not have a complete match with ' 3306(b)(10), it was listed as a partial match even though it did match the student provision. Nevertheless, this issue should be included in the HWC/UI. Further analysis will have to be done by the project team on the partial match jurisdictions to see how they compare to this specific issue.

Employment does not include services as a student nurse in the employ of a hospital or nurses= training school B Issue 400.

Rationale: There are 33 matches, one partial match, and 19 no provision jurisdictions. This issue is suitable for harmonization.

Death Benefits B Issues 303, 478, and 479.

Rationale: The definition of Death Benefits, outlined in Issues 303, 478, and 479, was adopted as part of the THWC; see the THWC Report.

Wages do not include payments by the Court for serving on a jury - Issue 316.

Rationale: Only one jurisdiction (Maryland) excludes payment by the Court for serving on a jury from wages; the remaining jurisdictions exclude jury pay from employment. See Issue 422, page C-4, C-10. This issue is suitable for harmonization.

Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from income under IRC ' 74(c) as an employee achievement award - Issue 304.

Rationale: There are nine matches and one partial match on this issue. Harmonization of this issue would result in harmony with the HWC for Income Tax Withholding (ITW). However, it has limited application. Employers have better ways to reward employees and the adoption of this wage exception should have little impact on the states.

Employment does not include service in a facility rehabilitating individuals whose earning capacity is impaired by age, injury, or physical or mental deficiency B Issue 415.

Rationale: There are 50 matches and three no provision jurisdictions. The issue here is the treatment of such services performed by the recipients, i.e., the patients or clients. This is misleading, however, because FICA and FUTA are listed as no provision. The IRS has taken an administrative position with respect to Asheltered workshops.@ If the activity is only rehabilitation, it would not rise to the level of employment. Recently, this has been a controversial issue with respect to the IRS.

B. Wage Inclusion Items

The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Awages@ that *would* be subject to tax under the HWC/UI.

Tips B Issues 59, 103, 104, 105, 106, 107, 108, and 311.

Rationale: The definition of Tips, outlined in Issues 59, 103, 104, 105, 106, 107, 108, and 311, was adopted as part of the THWC; see the THWC Report. These issues describe the procedural requirements for tip inclusion, reporting, etc. (Note that noncash tips are not subject to FICA and FUTA).

Wages include any employer-provided vacation pay B Issue 235.

Rationale: Included in the THWC.

Wages include any employer-provided jury pay B Issues 316, 422.

Rationale: Included in the THWC.

C. Employment Inclusion Items

The following provisions are recommended for adoption in the HWC/UI and describe the kinds of Aemployment@ that *would* be subject to tax under the HWC/UI, provided that the three-prong test is satisfied.

Employment and employee includes services performed by any officer of a corporation - Issue 332.

Rationale: There are 32 matches and four partial matches. A number of the matches are Aindirect@ matches, i.e., an officer of a corporation is an employee; Aemployment@ means services by an employee. Therefore, this issue should be viewed in conjunction with Issue 109, page C-9 (employee means any officer of a corporation).

Employment includes any service, of whatever nature, performed outside of the United States (except in a contiguous country with which the United States has an agreement relating to unemployment insurance) by a citizen of the United States as an employee of an American employer - Issue 347.

Rationale: There are 38 matches, 12 partial matches, and three no provision jurisdictions. With a total of 50 matches and partial matches, this issue is suitable for harmonization.

Employment includes services performed by legal and illegal aliens to the extent the service by citizens is covered - Issue 381.

Rationale: There are only three matches (the state of Washington, FICA, and FUTA); the remaining jurisdictions have no provision. However, in the Ano provision@ jurisdictions, such services are covered under the basic concept of employment. ANo provision,@ in this case, means no employment.

Employment includes service on or in conjunction with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which, and while the employee on the vessel or aircraft, it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States - Issue 350.

Rationale: There are 38 matches, five partial matches, and 10 no provision jurisdictions. The issue is suitable for harmonization.

Employee includes any officer of a corporation - Issue 109.

Rationale: There are 33 matches and 13 partial matches. However, seven of the partial matches are due to state Arecapture@ provisions. Of the eight Ano provision jurisdictions,@ two of them are matches for Issue 332, page C-10 (employment includes services performed by an officer of a corporation). When Issues 332 and 109 are taken together, there are 38 matches, not counting the Arecapture matches.@ This issue is suitable for harmonization.

In the service of an employing unit means an individual employed to assist another shall be deemed to be engaged by the employing unit, whether or not the individual was hired or paid directly by the employing unit, provided the employing unit had actual or constructive knowledge of the work B Issue 278.

Rationale: There are 28 matches, one partial match, and 24 no provision jurisdictions. While FICA and FUTA are listed as Ano provision jurisdictions,@ the IRS has taken the position that an employee, hired by an employing unit with the

actual or implied consent of the employing unit, is an employee of the employing unit. It is likely that other Ano provision@ jurisdictions have taken a similar position. Therefore, this issue is suitable for harmonization.

D. Outlyers

This is a list of provisions that were found in four or fewer jurisdictions. For each outlyer, the involved jurisdiction(s) should change their law to be in harmony with the HWC/UI. That is, the involved jurisdiction(s) should no longer except each item from Awages@ and/or Aemployment.@ Deletion of the provisions will result in the item no longer being an Aexception@ or Aexclusion,@ and the remuneration or services would become subject to tax, assuming that the three-prong test is satisfied.

Wages do not include payments to an alien unless lawfully admitted for permanent residence - Issue 321.

Rationale: There are two matches (Georgia and New Hampshire) and 51 no provision jurisdictions; the treatment of these payments by the states is to exclude them from wages.

Wages do not include payments of remuneration to a disabled worker during the year in which he or she became entitled to disability insurance benefits under the Social Security Act - Issue 313.

Rationale: There are two matches (Wyoming and FICA) and 51 no provision jurisdictions.

Wages do not include payments for any attendance bonus during or incident to any period of unemployment - Issue 320.

Rationale: There is one match (Delaware), and 52 no provision jurisdictions. The payment is apparently to encourage an employee to attend a meeting during a period of unemployment. It does not seem logical for such a payment to be taxed and covered, but this may be a device to assure that the payment does not reduce unemployment benefits. It is assumed that most jurisdictions follow this practice without a specific provision.

Wages do not include payments under a judgment, stipulation, transaction, or the voluntary act of an employer, in addition to the salary the employee is entitled to receive B Issue 323.

Rationale: One=s interpretation of the issue generally depends upon what the judgment is based upon and the analysis generally falls under whether the payment is within the basic definition of wages. Also, if the payment arises in the context of employment, it generally does not matter if the employer was under a legal obligation

to pay or not pay, unless it is for damages.

Wages do not include payments under the Comprehensive Employment and Training Act for services in public service employment unless federal funds are furnished to pay for the cost of any and all unemployment compensation paid as a result of such services B Issue 322.

Rationale: There is one match (New Hampshire), and one partial match (Oregon). The remaining 51 jurisdictions have no provision. The position of the IRS is that these payments are wages. The payments arise in employment and generally the source of funds is immaterial when they are paid as wages for employment. New Hampshire and Oregon should drop the provision.

Wages do not include remuneration paid to an informer or tipster by a governmental agency B Issue 329.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions. It is likely that the treatment of such payments is the same for most jurisdictions, but that jurisdictions arrive at this position by concluding that there was no employment relationship between the parties. In order to exclude something from wages, an employment relationship between an employer and employee must exist and that could lead to problems for other forms of remuneration, such as benefits, etc. Wisconsin should drop this provision.

Wages do not include any loan repayment that is repaid at interest rates below established market rates B Issue 330.

Rationale: There is one match (Wyoming). This issue is probably moot since the compensation level of employees who receive this type of loan far exceeds any state tax base or benefit base. However, it is an issue for FICA. IRC '7872 states that no amount shall be subject to income tax withholding, but the code is silent on FICA. The IRS issued regulations that the amounts would be subject to FICA. FUTA would also apply, but as stated, the wage base is so low that this issue would be moot. Wyoming should drop this provision.

Wages do not include payments by any town, city, or other political subdivision to an individual for services performed in lieu of payment of delinquent taxes B Issue 318.

Rationale: There is one match (Connecticut); Connecticut should drop this provision.

Wages do not include supplemental payments made by an employer to an individual performing services, other than remuneration for services performed, under a shared work plan approved by the Director of UI B Issue 314.

Rationale: There is one match (Illinois). It is unclear what this provision applies to or what it means. Payments for services under a shared work plan are not wages, except for remuneration for services performed, which does not make sense. It could mean that a payment just to agree to a shared work plan is not wages. Illinois should drop this provision.

Wages do not include voluntary unemployment tax contributions from an employer who is not liable B Issue 328.

Rationale: There is one match (New York); New York should drop this provision.

Wages do not include payments to an employee by a business entity in which 50 percent or more of the proprietary interest is owned by such employee, or his or her son, daughter, spouse, father, or mother, unless FUTA is payable - Issue 317.

Rationale: There is one match (Connecticut). The remaining jurisdictions have no provision. Further, this issue would have limited application since the only exception from FUTA would be for employment of a child under the age of 21, in the employ of his or her mother or father. There would be no exception from FUTA for services based solely on a proprietary interest.

Wages do not include compensation paid to the owner or owners who are sole proprietors of an unincorporated employing unit B Issue 315.

Rationale: There is one match (Louisiana). However, the jurisdictions probably follow this rule in substance. If the business is a sole proprietorship or even a partnership, the Acompensation paid@ would not be wages in a sole proprietorship, but rather a distribution of profit. Since the payments would not reach the level of wages, there is no need to exclude it from the definition of wages. Louisiana should drop this provision.

Wages do not include payments of back pay awarded by an order directed solely to a union where the employer is not a party to the proceeding B Issue 324.

Rationale: There is nothing to indicate that any jurisdiction follows this issue.

Wages do not include payments of vacation pay, severance pay, or saving plans received by an individual before becoming totally or partially unemployed but earned prior to becoming totally or partially unemployed B Issue 325.

Rationale: There is one match (West Virginia), and 52 no provision jurisdictions.

West Virginia should drop this provision.

Employment does not include services performed by a registered sales representative for a travel agency when a service is performed solely by way of commission B Issue 440.

Rationale: There is one match (Hawaii); Hawaii should drop this provision.

Employment does not include services as a timber worker engaged in the harvesting of timber or the transportation of timber to market, nor does it include services as a stone artisan engaged in services including sculpting, etching, or carving quarried stone if the individual qualifies as an independent contractor B Issue 465.

Rationale: There is one match (Vermont); Vermont should drop this provision.

Employment does not include service for Americorps B Issue 476.

Rationale: There are three matches (Idaho, Nebraska, and Rhode Island) and 50 no provision jurisdictions. Idaho, Nebraska, and Rhode Island should drop this provision.

Employment does not include yacht salespersons performing services for a licensed trader where payment is solely by commission B Issue 448.

Rationale: There is one match (Maryland). It is possible, due to recent legislation, that there are now two matches. Maryland should drop this provision.

Employment does not include services as a member of a board of directors, board of trustees, or board of managers, where such services are not the principal employment of the individual - Issue 455.

Rationale: There is one match (New Jersey), and one partial match (Ohio) on this issue; the remaining jurisdictions have no provision. Most jurisdictions either follow the federal rule with respect to corporate directors and do not consider them employees, or jurisdictions except director fees from wages. The compensation is not reported for tax or benefit purposes. The HWC/UI addresses corporate directors through the concept of employee or wages. New Jersey and Ohio should drop this provision.

Employment does not include service performed for a motor carrier by a lessor leasing vehicles driven by the lessor, or one or more drivers provided by the lessor, with the motor carrier as lessee - Issue 451.

Rationale: There is one match for this issue (Nebraska); Nebraska should drop this provision.

Employment does not include services performed for an employer who is a common carrier of persons or property by an individual, firm, or corporation, as commission agent in disseminating information with respect to and selling transportation of persons or property and in maintaining facilities incidental thereto, including waiting areas, dining rooms, and rest rooms for passengers and storage space for property - Issue 438.

Rationale: There is one match for this issue (Georgia); Georgia should drop this provision.

Employment does not include service making motion pictures or television commercials for fewer than 14 days during any calendar year - Issue 388.

Rationale: There is one match for this issue (Kansas); Kansas should drop this provision.

Employment does not include service by athletes, who are neither citizens or residents of the United States, who come into the state occasionally - Issue 428.

Rationale: There is one match (California). The remaining jurisdictions do not cover activities for such service. Perhaps this is accomplished with other provisions, but it does not make sense to tax such service for UI purposes. California should drop this provision.

Employment does not include services provided by an individual pursuant to an agreement among the service recipient, a public human services agency, and such individual to an eligible service recipient in his own home or the home of the service provider - Issue 467.

Rationale: There is one match (Virginia), and 52 no provision jurisdictions. Virginia should drop this provision.

Employment does not include childcare service provided through the Adult and Family Services Division to an individual who is the recipient of public assistance - Issue 460.

Rationale: There is one match (Oregon), and 52 no provision jurisdictions. Oregon should drop this provision.

Employment does not include services performed by an individual for any political caucus, committee, headquarters, or other group of like nature not established on a permanent basis - Issue 427.

Rationale: There are three matches (Arkansas, California and the District of Columbia), one partial match (New Hampshire), and 49 no provision jurisdictions for this issue. Arkansas, California, the District of Columbia, and New Hampshire should drop this provision.

Employment does not include services by individuals who are metal mining lessees under lease agreements unless the lease agreement or practice in actual operation is such as would constitute the lessees as employees of the lessor in common law - Issue 464.

Rationale: There is one match (Utah), and 52 no provision jurisdictions. Utah should drop this provision.

Employment does not include services by individuals who are mining lessees under lease agreements unless the lease agreement or practice in actual operation is such as would constitute the lessees as employees of the lessor in common law - Issue 453.

Rationale: There are one match (Nevada) and 52 no provision jurisdictions. This issue, which addresses mining lessees, is similar to Issue 464, listed above, which addresses metal mining lessees. Nevada should drop this provision.

Employment does not include services performed for a nonprofit organization by a person participating in a youth service program - Issue 457.

Rationale: This issue is outside the scope of the HWC/UI.

Employment does not include service for a nonprofit organization in connection with a symphony, opera, play, pageant, festival, rodeo, or similar event - Issue 446.

Rationale: There are one match (Oregon), five partial matches (Maine, New Jersey, Ohio, Oregon, and Washington), and 47 no provision jurisdictions. Harmonization of this issue would not help to reduce employer burden. Oregon, Maine, New Jersey, Ohio, Oregon, and Washington should drop this provision.

Officers of nonprofit fraternal organizations, civic organizations, clubs, or unions, which are not subject to FUTA, are excepted from employment if the remuneration for such service does not exceed $100 per month - Issue 429.

Rationale: There are two matches (California and Delaware), three partial matches (FUTA, New Jersey, and North Dakota), and 48 no provision jurisdictions. California, Delaware, FUTA, New Jersey and North Dakota should drop this provision.

Employment includes any service in an artistic or literary capacity performed under a collective bargaining agreement in the motion picture, radio, or television industry where the employer has the right to control and direct the services and the worker is defined as an employee under the terms of the agreement - Issue 360.

Rationale: There is one match (California), and 52 no provision jurisdictions. California should drop this provision.

Employment includes services performed no matter how paid B Issue 369.

Rationale: There is one match (New Hampshire), and 52 no provision jurisdictions. This is a basic concept, which usually falls within the definition of wages, not employment. The substance of the issue is common to all jurisdictions; it is not necessary to state it under the definition of employment. New Hampshire should drop this provision.

Employment does not include the services of a freelance journalist B Issue 477.

Rationale: There are two matches (Montana and New York), and 51 no provision jurisdictions. If the journalist is freelance, it is likely that he or she would, in any case, be an independent contractor. Montana and New York should drop this provision.

Employment does not include services performed by an individual in the delivery or messenger service business B Issue 436.

Rationale: There are three matches (Florida, Maryland, and Texas), one partial match (Virginia), and 49 no provision jurisdictions. Florida, Maryland, Texas, and Virginia should drop this provision.

Employment does not include services by a licensed massage practitioner if the individual receives no remuneration from the owner of the business from which the services are performed B Issue 469.

Rationale: There is one match (Washington), and 52 no provision jurisdictions. Washington should drop this provision.

Employment does not include services performed as an intermittent or adjunct instructor at a post secondary educational institution B Issue 431.

Rationale: There is one match (California), and 52 no provision jurisdictions. California should drop this provision.

Employment does not include services performed by an individual preparing income tax returns and schedules if compensated solely by way of commissions B Issue 425.

Rationale: There is one match (Arizona), and 52 no provision jurisdictions. Arizona should drop this provision.

Employment does not include services performed by installers of floor coverings B Issue 450.

Rationale: There is one match (Montana), and 52 no provision jurisdictions. Montana should drop this provision.

Employment does not include services provided by a contract interviewer B Issue 447.

Rationale: There are four matches (Maine, Massachusetts, Nebraska, and Utah) and 49 no provision jurisdictions. Maine, Massachusetts, Nebraska, and Utah should drop this provision.

Employment does not include services performed by jockeys B Issue 475.

Rationale: There are two matches (California and Oklahoma) and 51 no provision jurisdictions. California and Oklahoma should drop this provision.

Employment does not include services as an official or participant at an amateur sports event B Issue 423.

Rationale: There are two matches (Arkansas and Minnesota) and 51 no provision jurisdictions. Arkansas and Minnesota should drop this provision.

Employment does not include services performed by an individual, who under the Federal Economic Act of 1964, is not subject to federal laws concerning unemployment compensation - Issue 441.

Rationale: There is one match (Hawaii). The remaining jurisdictions have no provision. Hawaii should drop this provision.

Employment does not include services performed by a home worker in the knitted outerwear industry B Issue 445.

Rationale: There is one match (Maine). The remaining jurisdictions have no provision. Maine should drop this provision.

Employment does not include services performed in connection with illegal gambling B Issue 442.

Rationale: There is one match (Illinois). The remaining jurisdictions have no provision. Illinois should drop this provision.

Employment does not include services performed for a family-owned private corporation that employs only members of the family who each own at least 50 percent of the shares issued by the corporation provided that the corporation elects to be excluded from coverage B Issue 435.

Rationale: There is one match (Hawaii), and 52 no provision jurisdictions. Hawaii should drop this provision.

Employment does not include services by a volunteer research subject paid on a per-study basis for scientific, medical, or drug-related testing for any organization that is not a nonprofit organization B Issue 452.

Rationale: There are two matches (Missouri and Nebraska). The remaining jurisdictions have no provision. Missouri and Nebraska should drop this provision.

Employment does not include unpaid services under a community work and training program or participation by volunteers B Issue 461.

Rationale: There is one match (Oregon). If the services were unpaid, there would be no compensation on which to base taxes or payment of benefits. If the purpose is to avoid an employee threshold, such as for nonprofit organizations in IRC '3309, it appears this would not work because the exception applies to employment C and to have employment, one must first have an employee. Oregon should drop this provision.

Employment does not include services by non-salaried occupational, physical, and speech therapists working pursuant to a written contract with a home health agency B Issue 433.

Rationale: There is one match (Florida), and three partial match jurisdictions (Oklahoma, Utah, and Wyoming). The remaining 49 jurisdictions have no provision. This provision presupposes that the relationship of the worker is that of an employee. Depending upon the circumstances, it is probable that the relationship is that of an

independent contractor, making the issue moot. Florida, Oklahoma, Utah, and Wyoming should drop this provision.

Employment does not include services performed by nurses, technicians, and other professional employees of hospitals if no part of the net earning of the hospital inures to the benefit of a private shareholder or individual, unless the service is required to be covered by FUTA B Issue 385.

Rationale: There is one match (Arkansas), two partial matches (Florida and Oklahoma), and 50 no provision jurisdictions (one of which is FUTA). The hospitals described appear to be IRC '501(c)(3) organizations, and as such, would not be subject to FUTA. However, under IRC '3309(c), the services would be required to be covered by the state. Unless Arequired to be covered by the FUTA,@ means subject to FUTA tax, there is a question of whether this exception applies to anyone. Arkansas, Florida, and Oklahoma should drop this provision.

Employment does not include services as a transcriber of depositions, court proceedings, or hearings performed away from the office of the person, firm, or association obligated to produce a transcript of these proceedings B Issue 430.

Rationale: There are two matches (California and Virginia), and one partial match for this issue. The remaining 50 jurisdictions have no provision.

Employment does not include services as a certified freelance shorthand reporter B Issue 389.

Rationale: There is one match (New York), and 52 no provision jurisdictions. This issue presupposes an employee/employer relationship between the parties. If the reporter is freelance, it is likely that the individual is an independent contractor. New York should drop this provision.

Employment does not include services by an oil and gas contract pumper B Issue 443.

Rationale: There is one match (Kansas), and 52 no provision jurisdictions. Kansas should drop this provision.

Employment does not include services performed by an individual for an employing unit as an agent in the wholesale distribution and sale of gasoline and other petroleum products if compensated solely by way of commission B Issue 466.

Rationale: There is one match (Virginia), and one partial match (Oregon). The remaining 51 jurisdictions have no provision. Virginia and Oregon should drop this provision.

Employment does not include petroleum product distributors B Issue 390.

Rationale: There is one match (Oregon), and 52 no provision jurisdictions. Oregon should drop this provision.

Employment does not include services performed by an individual as a landman if substantially all of the remuneration is directly related to sales or other output B Issue 444.

Rationale: There are four matches (Louisiana, New Mexico, Oklahoma, and Texas) and 49 no provision jurisdictions. Louisiana, New Mexico, Oklahoma, and Texas should drop this provision.

Employment does not include services performed as a securities salesman if compensated solely by way of commission B Issue 426.

Rationale: There are three matches (Arizona, Oregon, and Utah) and 50 no provision jurisdictions. Arizona, Oregon, and Utah should drop this provision.

Employment does not include services performed by an agent of a mutual fund broker or dealer in the sale of mutual funds or other securities if compensated wholly on a commission basis B Issue 456.

Rationale: There is one match (New Jersey), and 52 no provision jurisdictions. Although this issue is similar to Issue 426 listed above, when taken together, there are still only four matches. New Jersey should drop this provision.

Employment does not include services performed by agents of mutual benefit associations compensated solely by way of commissions B Issue 454.

Rationale: There is one match (New Jersey), and 52 no provision jurisdictions. New Jersey should drop this provision.

Employment does not include services by individuals who, on a temporary part-time basis, demonstrate or give away samples of food products as part of advertising or sales promotions in stores that sell food as retail, and who are not otherwise directly employed by the manufacturer, distributor, or retailer B Issue 462.

Rationale: There are four matches (Alabama, Michigan, New Mexico, and Oregon) and 49 no provision jurisdictions. Alabama, Michigan, New Mexico, and Oregon should drop this provision.

Employment does not include service by an individual if such individual has been and will continue to be free from control and direction; the service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business; and such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed - Issue 68.

Rationale: There is one match (Massachusetts), and 52 no provision jurisdictions. In effect, this issue negatively describes the three-prong test of employment. This provision states that the described relationship is that of an employee, but the service is not employment. The jurisdictions that use the three-prong test would argue that the individual is not an employee. Massachusetts should drop the provision.

Employment does not include professional services performed by a consultant working as an independent contractor B Issue 432.

Rationale: There is one match (California), one partial match (Washington), and 51 no provision jurisdictions. If the individual were an independent contractor, he/she would not be an employee, thus making the issue of employment moot. Legally, this issue says that an individual, working as an independent contractor/consultant, is an employee, but the services are excepted from employment. Most, if not all, other jurisdictions would probably argue that the individual is not an employee C reaching the same result, i.e., that the individual is not subject to UI, but reaching that result through the three-prong test of employment. California and Washington should drop this provision.

Employment does not include service performed for one or more principals by an individual compensated on commission, who, in the performance of the work, is master of his/her own time and effort, and whose remuneration is wholly dependent on the amount of effort he/she chooses to expend, and which service is not subject to the FUTA B Issue 458.

Rationale: There is one match (Ohio), and 52 no provision jurisdictions. If the individual is working under the conditions described in this issue, he/she would probably be an independent contractor and, therefore, outside the concept of employment. This issue has an escape, interestingly, in that if subject to FUTA, the exception does not apply. Ohio should drop this provision.

Casual labor defined means service of less than two consecutive weeks and not in the normal course of business B Issue 27.

Rationale: There is one match (Wyoming). All remaining jurisdictions have no provision. Wyoming should drop this provision.

Employer shall not include a for-hire motor carrier whose operations are confined to a commercial zone with respect to a lessor or a driver receiving remuneration from a lessor - Issue 148.

Rationale: There is one match (Missouri). The remaining jurisdictions have no provision. Missouri should drop this provision.

Employer means any employing unit, which pursuant to a collective bargaining agreement, pays wages to individuals in the motion picture, radio, or television industry - Issue 133.

Rationale: There is one match (California). It is a special purpose law that shifts liability from the common-law employer to the entity paying the wages. California should drop this provision.

Employer includes any employing unit which employs individuals to perform domestic service comprising of in-home supportive services and is (a) the recipient of such services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of such services; (b) the individual or entity with whom a county contracts to provide in-home services; (c) any county which hires and directs in-home personnel - Issue 134.

Rationale: There is one match (California), and 52 no provision jurisdictions. California should drop this provision.

Employing Unit includes any organization or political agency authorizing the hiring of home workers, personal care attendants, or other individuals performing similar services in the private home of an individual whether the agency pays the employee directly or provides funds to the recipient of the services to pay for the services - Issue 287.

Rationale: There is one match (Minnesota), and 52 no provision jurisdictions. Minnesota should drop this provision.

Employer does not include a county department or aging unit that serves as a fiscal agent or contracts with a fiscal intermediary as to any individual performing services for a person receiving long-term support or personal assistance services - Issue 152.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions. Wisconsin should drop this provision.

All individuals performing services in the employ of an elected fee-paid county official, other than those related by blood or marriage, shall be deemed to be employed by such county as the employing unit - Issue 288.

Rationale: There is one match (Mississippi), and 52 no provision jurisdictions. Mississippi should drop this provision.

Employee leasing company means an employing unit which maintains a valid and active license and records listing clients and employees who have been assigned B Issue 35.

Rationale: There is one match (Florida), three partial matches (Georgia, Nebraska, and Wisconsin), and 49 no provision jurisdictions. This provision requires licensing of the leasing company which imposes a burden on employers. Florida, Georgia, Nebraska, and Wisconsin should drop this provision.

A person that meets the definition of Alessor employing unit@ shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit B Issue 147.

Rationale: There is one match (Missouri), and 52 no provision jurisdictions. It is reasonable to believe most jurisdictions rely on their general provisions for establishing liability, rather than undertake writing specific statutory language. Little is gained by recommending a specific provision to accomplish something when general provisions adequately cover it. Missouri should drop this provision.

Employer includes all partnerships consisting of the same partners except that employer means each partnership consisting of the same partners if (1) each partnership maintains separate accounting records; (2) each partnership otherwise qualifies as an employer; (3) each partnership files a written request to be treated as an employer; and (4) the request is approved B Issue 139.

Rationale: There is one match (Minnesota), and 52 no provision jurisdictions. Minnesota should drop this provision.

The owner or operator of a beauty salon or similar establishment shall not be determined to be the employer of a person who utilizes the facilities of the owner or operator but who receives neither salary, wages, or other compensation from the owner or operator and who pays the owner/operator rent or other payments for use of the facilities B Issue 149.

Rationale: There is one match (Maryland), and 52 no provision jurisdictions. It is likely that most jurisdictions follow the same rule, but arrive at that position by application of the common-law rules for determining who is an employer and employee. This does not mean that the issue should be harmonized. It simply means

that most jurisdictions did not find it necessary to make this issue a part of specific legislation. Maryland should drop this provision.

Employer includes any person contracting for the creation of a specially ordered or commissioned work of authorship, when the parties expressly agree in a written instrument signed by them that the work shall be considered a work Amade for hire@ and the ordering or commissioning party obtains ownership of all the rights comprised in the copyright of the work. The ordering or commissioning party shall be the employer of the author of the work B Issue 136.

Rationale: There is one match (California), and 52 no provision jurisdictions. California should drop this provision.

The Department of Rehabilitation shall be considered the employer of blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, in connection with their employment by the state for work in the State Industries for the Blind B Issue 362.

Rationale: There is one match (California), and 52 no provision jurisdictions. California should drop this provision.

Related Corporations Defined B Issue 48.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions. Most jurisdictions have provisions that would allow them to determine whether entities are related. Wisconsin should drop this provision.

Seasonal Employer Defined B Issue 52.

Rationale: There is one match (Indiana), two partial matches (Massachusetts and Wisconsin), and 50 no provision jurisdictions. Indiana, Massachusetts, and Wisconsin should drop this provision.

Seasonal Employment Defined B Issue 53.

Rationale: There are two matches (Indiana and Massachusetts) and 51 no provision jurisdictions. Indiana and Massachusetts should drop this provision.

Seasonal Worker Defined B Issue 54.

Rationale: There is one match (Indiana), and 52 no provision jurisdictions. Indiana should drop this provision.

School Defined B Issue 50.

Rationale: There is one match (Indiana), and 52 no provision jurisdictions. Indiana should drop this provision.

School Year Employee Defined B Issue 51.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions. Wisconsin should drop this provision.

Full-time Student Defined B Issue 38.

Rationale: There is one match (West Virginia), and 52 no provision jurisdictions. West Virginia should drop this provision.

Education Service Agency Defined B Issue 34.

Rationale: There are two matches (South Dakota and Wisconsin) and 51 no provision jurisdictions. South Dakota and Wisconsin should drop this provision.

Employing unit includes any federal instrumentality, which is neither wholly nor partially owned by the United States - Issue 277.

Rationale: There are two matches (Arizona and Louisiana), two partial matches (Alaska and California), and 49 no provision jurisdictions. Harmonization is not necessary, because such an employing unit would fall within the general definition of an employer or employing unit. If the Aemployer@ is neither wholly nor partially owned by the United States, it is more than likely to simply be an employer that carries out functions for the United States, such as a national bank. Arizona, Louisiana, Alaska, and California should drop this provision.

Nonprofit organization means an organization described in IRC '501(c)(3) - Issue 44.

Rationale: There are three matches (Kansas, Pennsylvania, and Wisconsin), one partial match (Oklahoma), and 47 no provision jurisdictions. In effect, Issues 127 and 339, page C-31, cover the concept of an IRC '501(c)(3) organization. Within their definitions, Issues 127 and 339 incorporate the requirements that qualify an organization as a Section 501(c)(3)-type of organization. Kansas, Pennsylvania, Wisconsin, and Oklahoma should drop this provision.

Employer includes any employing unit which maintains an operating office within the states from which an American vessel is supervised, managed, directed, and controlled; provided that the employing unit would otherwise be an employer B Issue 141.

Rationale: There is one match (North Carolina), and 52 no provision jurisdictions. If the employing unit must otherwise be an employer, then the provision does not appear to add anything to the definition of employer. North Carolina should drop this provision.

An employing unit failing to keep records is presumed to be an employer B Issue 130.

Rationale: There are two matches (Florida and New Hampshire). Florida and New Hampshire should drop this provision.

Reorganized employer means (1) an employer that alters its legal status, or (2) an employer that otherwise changes its trade name or business identity while remaining under substantially the same ownership B Issue 49.

Rationale: There is only one match (Colorado); Colorado should drop this provision.

Employer includes any nonresident employing unit that employs, within the state, one or more employees for one or more weeks B Issue 135.

Rationale: There is one match (Minnesota), and 52 no provision jurisdictions. Minnesota should drop this provision.

Employment does not include services of a corporate executive, including a board member, if the individual is a majority shareholder - Issue 384.

Rationale: There is one match (California), and three partial matches (Alaska, Illinois, and Iowa). (California allows this only if FUTA would allow it B and FUTA does not. Thus, the California provision is not operative). The remaining 49 jurisdictions, including FICA and FUTA, have no provision. However, other jurisdictions address the issue of officer owners of a corporation in other ways, in order to exclude them from coverage. Perhaps the coverage for unemployment of employee owners is a matter where harmonization should not be attempted. These same employers would be subject to FUTA even though the individuals would not be eligible for unemployment compensation. A further problem arises with respect to board members. This provision implies that if an individual were not a majority shareholder, the service would be employment. The IRS and a number of jurisdictions treat board members as non-employees.

Employment does not include services as a golf caddie B Issue 471.

Rationale: There are six matches (California, New York, North Dakota, Oregon, Rhode Island, and Wisconsin) and 47 no provision jurisdictions. There are a low number of jurisdictions that except this employment. Further, only a small number of individuals are now employed as caddies. California, New York, North Dakota, Oregon, Rhode Island, and Wisconsin should drop this provision.

Employment does not include service as a barber or cosmetologist if such service is performed by an individual for remuneration solely by way of commission B Issue 437.

Rationale: There are 10 matches and 43 no provision jurisdictions. The 10 jurisdictions should drop this provision.

Employment does not include services performed by a full time student in the employ of an organized camp B Issue 407.

Rationale: There are 13 matches and 40 no provision jurisdictions. The 13 jurisdictions should drop this provision.

Employment does not include services performed as a product demonstrator if the individual is not treated as an employee for FUTA purposes B Issue 463.

Rationale: There are five matches (Alabama, Michigan, New Mexico, Tennessee, and Texas) and 48 no provision jurisdictions. Alabama, Michigan, New Mexico, Tennessee, and Texas should drop this provision.

E. Definitional Provisions

The following definitional provisions should be part of the HWC/UI in order to promote as much harmony as possible. Many are pertinent in only a few jurisdictions, but do not affect other jurisdictions. This is not an exhaustive list; jurisdictions may wish to include other provisions.

American aircraft defined means an aircraft registered under the laws of the United States B Issues 11 and 20.

Rationale: Issues, 11 and 20, and 366 and 393, listed below, all deal with American aircraft either by definition or by employment inclusion or exclusion. When taken together, the term AAmerican aircraft@ is used by 30 jurisdictions, 29 of which have adopted the federal definition. It is also believed that the Ano provision@ jurisdictions have adopted the federal definition. It is recommended that the federal definition be adopted.

Circumstances when employment includes service on an American aircraft defined B Issue 366.

Rationale: Although there are only three matches and two partial matches, this issue is too important not to include in the HWC/UI. It is likely that in a lot of jurisdictions, the term Aforeign aircraft@ is not a factor. However, for those jurisdictions that have the term Aforeign aircraft@ landing, the issue is an important factor.

Circumstances when employment does not include services on an aircraft or vessel that is not an American aircraft of vessel B Issue 393.

Rationale: For the reasons listed under Issues 366, and Issues 11and 20 above, this definition should be adopted.

Person defined shall include, without it being construed as a limitation, any individual, as well as any official of a corporation; member of a company, association, or estate; or civil, mercantile, partnership, or professional cooperative of any other nature - Issue 374.

Rationale: There is one match (Minnesota), and two partial matches for this issue. The concept and the use of the IRC ' 7701(a)(1), definition of person, should be adopted. Fifty Ano provision@ jurisdictions follow the federal rule and there may be a de facto adoption of the federal definition of person.

Threshold test B the wages paid for domestic service are not counted for determining other threshold tests - Issue 118.

Rationale: There are 34 matches and 19 no provision jurisdictions. Except for agricultural employment, the thresholds for the test of employer are so low that this issue is almost moot. However, given the 34 matches, it should be harmonized.

Death Benefits Defined B Issues 478, 479, and 303.

Rationale: The definition of Death Benefits, outlined in Issues 478, 479, and 303, was adopted as part of the THWC; see the THWC Report.

Successor/Predecessor Rule Defined B Issues 291, 56, 121, 122, 144, and 289.

Rationale: Each of the issues, 291, 56, 121, 122, 144, and 289, is a form of the successor/predecessor rule with slight variations. In some jurisdictions, it is simply a matter of where the successor/predecessor rule is contained in the jurisdiction=s law as to which issue it is under. When taken together, there are 49 matches, 2 partial matches, and 2 no provision jurisdictions.

Pay period defined means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to an individual in the employ of an employing unit B Issues 367 and 46.

Rationale: When Issues 367 and 46 are taken together, there are 23 matches and 30 no provision jurisdictions with respect to this issue. It is possible that some of the Ano provision@ jurisdictions follow this pay period rule.

Week defined means a period of seven consecutive days B Issue 63.

Rationale: There are 19 matches, 24 partial matches, and 10 no provision jurisdictions.

Employee Defined - Issues 110, 333, and 162.

Rationale: Issues 110, 333, 162 all deal with defining an employee under the common law rules, with respect to the right of control.

F. Leave Alone Provisions

Harmonization of the provisions listed in this section would have a minimal effect on the *overall* goals of the harmonization, and are therefore not part of the HWC/UI. However, some of the provisions are significant for some *jurisdictions*. The provisions are listed here (along with rationales for harmonization) so that the affected jurisdictions may consider harmonizing them.

Wages paid for agricultural labor are not counted for determining other employer threshold tests B Issue 125.

Rationale: There are 29 matches and 24 no provision jurisdictions.

When non-qualified deferred compensation is treated as wages depends on timing B Issue 81.

Rationale: Although there are only five matches and seven partial matches as compared to 31 no provision jurisdictions, this provision should be adopted. Many of the Ano provision@ jurisdictions would nevertheless follow the federal rule either by adopting the federal definition of wages or under their recapture provisions.

Employment includes service performed within and without the state, if the service is not localized in any state, but some part of the service is performed in the state and the base of operations is in the state. Also, if the service is directed not in any state in which some part of the service is performed, but the individual=s residence is in the state - Issue 70. Issue 352 appears to be the same as Issue 70 in substance and in language.

Rationale: When Issues 70 and 352 are taken together, there are 46 matches, two partial matches, and five no provision jurisdictions (including FICA and FUTA). Although this concept of employment has no bearing or impact on FICA and FUTA, harmonization of the issue among the states would be a benefit for both the states and employers. States should consider harmonization.

Employment includes services by a resident performed entirely without the state if no contributions are required to be paid to another state - Issue 354.

Rationale: There are 30 matches, one partial match, and 22 no provision jurisdictions (including FICA and FUTA). Although this concept of employment has no bearing or impact on FICA and FUTA, harmonization of the issue among the states would be a benefit for states and employers. States should consider harmonization.

Employer includes an employing unit for which services are performed (1) in the employ of the state or any of its instrumentalities, or (2) any political subdivision or any of its instrumentalities, or (3) any instrumentality of any of one or more of the foregoing which is excluded from employment as defined in IRC ' 3306(c)(7) - Issue 124.

Rationale: All jurisdictions are a match, with the exceptions of FUTA and FICA. FUTA specifically excludes such service from the definition of employment and FICA is a partial match. However, no attempt should be made to align FICA and FUTA with the states.

Employment does not include services that would be covered under any other federal or state employment compensation system - Issue 421.

Rationale: There are 41 matches and 12 no provision jurisdictions, including FICA. In one way or another, the 11 Ano provision@ states follow this concept. An employer would not have to pay UI taxes for the same employment services to two or more states.

Employment includes services which are performed in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from employment as defined in Section 3306(c)(8) of the FUTA and the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks - Issues 127 and 339.

Rationale: Issue 339 includes such service in the definition of employment and Issue 127 defines employer as an employing unit that engages individuals in such service; however, they exclude FUTA and FICA. FUTA does not apply to such services although an argument could be made that it should since this is a mandatory coverage area and as such the employer should pay for some portion of the Aoverhead@ in administering the UI system. FICA has no exclusion based on number of employees. Further, special rules apply to religious organizations. Within the states, there are 47 matches and four partial matches.

United States defined includes, in addition to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands - Issues 2, 61, and 349.

Rationale: There are 37 matches, 12 no provision jurisdictions, and four partial matches, including FICA. The Ano provision@ jurisdictions most likely follow the FUTA definition. FICA differs from FUTA in that FICA includes Guam and American Samoa in the definition of United States. No change to FICA is recommended.

Employer includes any employing unit for which domestic service in employment, as defined in state law, is performed - Issue 117.

Rationale: There are 48 matches and five no provision jurisdictions. It is likely that the five no provision jurisdictions follow this definition of employer. This is an area where a specific definition is probably not needed to make such an employing unit an employer. Generally, the principle follows that an employer is a person who employs employees. If the service otherwise qualifies as employment, there would be an employer.

American Employer means a person who is (A) an individual who is a resident of the United States; or (B) a partnership, if two-thirds or more of the partners are residents of the United States; or (C) a trust, if all of the trustees are residents of the United States; or (D) a corporation organized under the laws of the United States or of any state - Issue 348.

Rationale: All jurisdictions are matches with the exception of FICA, which is a partial match. See Issues 6 and 24, below.

American Employer includes a corporation organized under the laws of the United States B Issues 6 and 24.

Rationale: When these two issues are taken together, there are 52 matches and one partial match. In some cases, the concept is contained in two issues due to its placement in the law.

American Employer includes an individual who is a resident of the United States B Issues 3 and 21.

Rationale: When these two issues are taken together, there is a complete match for all jurisdictions. In some cases, the concept is contained in two issues due to its placement in the law.

American Employer includes a partnership if two-thirds or more of the partners are residents of the United States - Issues 4 and 22.

Rationale: When these two issues are taken together, there is a complete match for all jurisdictions. In some cases, the concept is contained in two issues due to its placement in the law.

American Employer includes a trust if all of the trustees are residents of the United States B Issues 5 and 23.

Rationale: When these two issues are taken together, there is a complete match for all jurisdictions. In some cases, the concept is contained in two issues due to its

placement in the law.

Third-party sick pay is included in wages B Issue 78.

Rationale: There are 10 matches, three no matches, and 40 no provision jurisdictions. The issue of third-party sick pay should not be taken up for the reasons listed in Issue 79, page C-38.

Wages do not include payment for Indian fishing as described in IRC ' 7873 - Issue 327.

Rationale: There are only three matches on this issue (Wisconsin, FICA, and FUTA). Because the provision deals with sovereign Indian tribes, it is likely the state=s jurisdiction over a tribe=s fishing would be limited. Since the issue only affects Indian tribes engaged in certain types of fishing, no useful purpose would be served by harmonizing this treatment.

Wages paid means the amount of wages which have actually been paid or which have been credited to or set apart for the employee so that payment and disposition is under the control of the employee B Issue 62.

Rationale: There is one match (Minnesota), three partial matches, and 49 no provision jurisdictions. However, most, if not all jurisdictions, embrace the concept of actual and constructive receipt and/or payment of wages. This concept is too basic and important to the administration of tax law to not have previously been addressed. It is likely that this concept is stated differently, or in some other form, in most jurisdictions. It is not necessary to address this issue in the HWC/UI.

Employment does not include services provided in one state to which contributions are required and paid under an unemployment law of any other state B Issue 434.

Rationale: There is only one match (Connecticut). However, the states probably follow the substance of this rule by means other than an exception from employment. Most likely, the states have worked out an arrangement that covers such situations. Any attempts to harmonize this provision would probably disrupt such arrangements.

Employment includes all domestic service for a person in the operation and maintenance of a private home, local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer=s trade, occupation, profession, enterprise, or vocation - Issue 346.

Rationale: There are five matches, one partial match, and 47 no provision jurisdictions. The five matches and one partial match all have matches for Issue 391 or Issue 345. The purpose of the provision could be to distinguish service performed by contract domestic services from a domestic service company. However, in such a

case, the domestic service worker would be an employee of the firm and not the service recipient.

Service which, because of an election, is employment, shall cease to be employment if election to terminate is approved B Issue 365.

Rationale: There are three matches (California, District of Columbia, and Kentucky) and 51 no provision jurisdictions. Because all but one state appear to permit election of coverage, it is odd that only two states appear to have an election to terminate such coverage.

Employment includes all parts of a person=s services if such services are deemed performed in the state by virtue of reciprocal agreements and does not include any service which, by virtue of such agreement, is deemed performed in another state - Issue 355.

Rationale: There are 19 matches, 11 partial matches, and 23 no provision jurisdictions, including FICA and FUTA.

Employment does not include services deemed performed in another state under a reciprocal agreement B Issue 439.

Rationale: This issue is outside the scope of the HWC/UI.

Employment Defined B Issue 331.

Rationale: The database indicates 14 matches, 27 partial matches, and 12 no provision jurisdictions. However, in analyzing the research, it is unclear whether the comparison is to FUTA, as is indicated. In any case, the concept of employment, no matter how or where stated in each jurisdiction, is in substance the same. Like the concept of wages, time could be devoted to bringing the language into line, but nothing would be achieved with respect to the concept or reducing employer burden.

State defined includes the District of Columbia, Commonwealth of Puerto Rico, and the Virgin Islands - Issues 1, 55, and 382.

Rationale: There are 38 matches of this definition, including FUTA. FICA, however, does not match since it includes Guam and American Samoa in its definition. Nine jurisdictions include Canada in their definitions of state; two include any dependency of the United States; and two jurisdictions have no provision. The inclusion of Canada must be analyzed to determine why it is included and what impact its inclusion has. Inclusion of Canada could be a factor in whether this definition can be harmonized.

American Employer includes the United States or any instrumentality thereof - Issues 25 and 7.

Rationale: When these two issues are taken together, there is only one match (FICA); all remaining jurisdictions have no provision jurisdictions. FUTA and the states do not cover the United States under their unemployment laws.

American Employer defined is an individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) who shall be considered as a citizen of the United States B Issue 9.

Rationale: There is one match (FUTA), and 52 no provision jurisdictions.

American Employer includes a limited liability company organized under the laws of the United States or of any state B Issue 8.

Rationale: There is only one match for this issue (North Dakota). The remaining jurisdictions, including FICA and FUTA, have no provision. This provision is not necessary. A limited liability company is a corporation and, as such, is encompassed by Issues 6 and 24, page C-33.

Employing unit includes a leasing employer or a temporary service employer that contracts to supply a worker to perform services for a customer or client B Issue 279.

Rationale: There are five matches, one partial match, and 47 no provision jurisdictions. This issue is a general definition that does not need specific statutory language.

Temporary employee means an employee of a temporary help firm assigned to work for clients of such temporary help firm B Issue 57.

Rationale: There are two matches (Nebraska and Texas) and 51 no provision jurisdictions. Although almost all jurisdictions probably subscribe to this definition, it is not necessary to urge adoption of specific statutory language to achieve this end.

Temporary help contracting firm is defined as any person who is in the business of employing individuals and, for compensation from a third party, of providing those individuals to perform work for the third party under the general or direct supervision of the third party B Issue 58.

Rationale: There is one match (Georgia), 2 partial matches, and 50 no provision jurisdictions. A number of the definitions dealing with temporary help leasing companies appear to be self-evident; however, it is not necessary to adopt specific statutory language.

Recapture Provisions Defined B Issues 351, 123, and 286.

Rationale: Recapture provisions only address how states deal with FUTA, with respect to changes in employment, employer, and credit, against the FUTA tax. These matters rest solely within the providence of the state and do not directly impact employers.

Common Paymaster Defined B Issues 12, 28, 132, 281, and 378.

Rationale: All five issues deal with the Common Paymaster; however, some of the issues are contained in provisions dealing with selected definitions, other definitions, employer, employing unit, and employment inclusions. First, there are 17 matches, two partial matches, and 34 no matches. The Ano match@ provisions specifically state that they do not recognize the common paymaster rules. Not only is this a big difference in treatment, but the impact on the states is different than the impact at the federal level. Common paymaster would allow employers to hide highly experienced ratings under a common paymaster C this is a non-issue at the federal level. There is a great deal of support for the common paymaster rules from the employer community, at least at the federal tax level, and there is little possibility for changing the rules.

Employer includes all limited liability companies consisting of the same members, except that Aemployer@ means each limited liability company consisting of the same members if (1) each limited liability company maintains separate accounting records; (2) each limited liability company otherwise qualifies as an employer; (3) each limited liability company files a written request to be treated as an employer; and (4) the request is approved B Issue 138.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions.

Employer includes an employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which if treated as a single unit with the other employing units or interests, or both, would be an employer B Issue 126.

Rationale: There are 11 matches and 42 no provision jurisdictions. This is probably an obsolete provision that was enacted before the thresholds that establish an employer were as low as they are now.

All individuals performing services within the state for an employer who maintains two or more separate establishments within the state shall be deemed to be performing services for a single employer B Issues 66, 71, and 129.

Rationale: When these issues are taken together, there are five matches and 48 no provision jurisdictions. Three of the matches are not matches for Issue 274, page C-42, which is very similar to these issues.

Employer includes a person who pays wages to an individual on account of sickness or accident disability B Issue 137.

Rationale: There are four matches and 49 no provision jurisdictions.

Payer of third-party sick pay is an employer B Issue 79.

Rationale: There are eight matches and 45 no provision jurisdictions. When the number of matches is considered, this would indicate that this should not be part of the HWC/UI. In addition, a larger problem exists. It would be extremely difficult to determine the experience rating and the rate of UI tax that applies. The third party is more than likely to be a large insurance company with many clients, possessing different experience levels that are located in different states. Harmonization could be extremely difficult from an administrative point of view.

ABC test of employee defined B Issue 163; ABC test of employment defined B Issue 358; AB test of employee defined B Issue 164; AC test of employee defined B Issue 165.

Rationale: The status of an individual as an employee under these kinds of tests is outside the scope of the HWC/UI.

The state and its instrumentalities shall be deemed to be employing units, and services performed in the employ of the state and its instrumentalities shall be deemed to constitute employment - Issue 74.

Rationale: There is one match (Rhode Island). However, all of the jurisdictions treat such service as employment. See Issue 124, page C-33, which treats the state

and its instrumentalities as an employer. There is conformity with Issue 74 without the necessity of including a specific provision.

Governmental entities and governmental employment deal either with the definition of state governmental entities, service for state governmental entities, or treatment of state governmental entities as employing units - Issues 39, 47, 75, 275, 336, 337, and 338.

Rationale: Although the issues are important, they only deal with the state as an employer and have no direct impact on the employer community as a whole. Harmonization of these issues would not result in burden reduction for the employer.

Employer includes any employing unit which, having become an employer, remains an employer, and does not cease to be an employer B Issue 119.

Rationale: Although there are 35 matches for this issue, it does not appear to be an issue where harmonization would relieve employer burden. This is a local issue for UI purposes.

An employing unit that employs individuals whose services must be covered by the UI laws of the state as a condition for approval of the UI insurance laws of the state will be considered to be an employer B Issue 276.

Rationale: This is a critical issue for the states and the federal government. If a state does not comply with the substance of the conforming laws, all employers of that state would lose their credits against the federal tax. The states, in one form or another, have a provision for conforming to this issue.

Employer includes an employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which if treated as a single unit with the other employing units or interests, or both, would be an employer B Issue 126.

Rationale: There are 10 matches and 43 no provision jurisdictions. Harmonization would not relieve employer burden. This issue addresses the rules under which employing units, owned or controlled by the same interests, are treated as an employer.

Employer includes an employing unit for which services are performed which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an arrangement entered into by the division and an agency charged with the administration of any other state or federal unemployment compensation law B Issue 128.

Rationale: There are 11 matches and 42 no provision jurisdictions. This issue deals

with arrangements between states and does not help reduce employer burden. Attempts at harmonization would probably adversely impact long-standing arrangements the states have entered into.

Employing Unit Defined B Issue 151.

Rationale: There are four matches and 49 no provision jurisdictions. The general definition of employer, employing unit, etc., is usually the same for all jurisdictions; only these definitions are found under different categories. The fact that there are 49 no provision jurisdictions does not mean they do not follow this basic definition elsewhere. Nevertheless, harmonization of the concept does not contribute to relieving employer burden. Nothing would be achieved by attempting to make minor language changes to a definition.

Employing Unit Defined B Issue 273.

Rationale: There are 36 matches, nine partial matches, and eight no provision jurisdictions on this issue. While it appears that this issue is a candidate for harmonization, it is not recommended. Employers know whether or not they are employers; new employers can be informed. Once this is known, the question of employer burden is not an issue.

Statutory employees as described in IRC ' 3121(d) and 3306(i), (other than an officer of a corporation) and the limitations to the definitions B Issues 111, 112, 113, 114, 334, 335, 372, and 373.

Rationale: The analysis of these issues mixes the concept of employee and employment to address the issues. In some jurisdictions, the definitions are found under the definition of employee. In others, they are found under the definition of employment. In general, they apply only to individuals who are not common-law employees. In any case, the first step in the application is the determination of whether the status of the individual is that of an employee.

Employment does not include service not in the course of the employer=s trade or business performed in any calendar quarter by an employee unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service - Issue 392.

Rationale: There are 20 matches, 16 partial matches, and 17 no provision jurisdictions. Thirteen of the 16 partial matches have no dollar threshold, which means that all such service is excepted from employment. For the matches, almost all such service is employment given the low dollar amount ($50.00 or more for a calendar quarter). The 17 no provision jurisdictions probably mean that there is no exception for this service and it is covered. However, why would a state want to

cover this type of work? There is no corresponding FICA provision. The dollar amount is so low, as mentioned above, that it is for the most part included. Compliance is also probably low, meaning that excluding all this service will have little impact.

Employment shall include all parts of an individual=s services, performed within or without the state, if the services are localized in the state B Issues 69 and 356.

Rationale: When taken together, and excluding FICA and FUTA, there are seven no provision jurisdictions in these two issues. However, this issue should be considered in conjunction with Issue 353, page C-43. This provision is irrelevant at the federal level.

Employer means with respect to any calendar year, any person who (A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or (B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day - Issue 115.

Rationale: There are 34 matches, 18 partial matches, and one no provision (FICA). Harmonization may be difficult since it would require legislative changes. However, the conversion of partial matches to conform to FUTA should have little or no impact. The definition had real meaning when the number of employees the employer had to engage was 12. With the current requirement of only one employee and wages of $1,500, there is little impact.

A licensed real estate agent is excluded as an employee of the person for whom the services are performed (IRC ' 3508) B Issue 420.

Rationale: There are 10 matches, 34 partial matches, and nine no provision jurisdictions. This is an area where harmonization should be a benefit to employers and support for harmonization would probably be backed by the industry if IRC ' 3508 were followed.

Included/Excluded Rule defined means if service performed during one-half or more of a pay period is employment, then all the service is employment; if service performed during one-half or more of a pay period is not employment, then none of the service is employment B Issues 67 and 359.

Rationale: There are 27 matches and 26 no provision jurisdictions. The two issues concerning this concept depend upon where the states include them in their provisions. With the changes to employment made over the years, these are issues that virtually never arise.

Direct sellers are excluded as employees of the person for whom the services are performed (IRC ' 3508) B Issue 419.

Rationale: There are 21 matches, eight partial matches, and 24 no provision jurisdictions. This is an area where harmonization would be beneficial to employers and support for harmonization would probably be backed by the industry if IRC ' 3508 were followed. However, the treatment of real estate agents can be a controversial issue.

Employee service company means a leasing company or temporary help service company which contracts with clients or customers to supply workers and (1) negotiates with clients for time, place, type of work, working conditions, quality, and price of the services; (2) determines assignments or reassignments; (3) sets the rate of pay; (4) pays the workers from its accounts; and (5) hires and terminates workers B Issue 142.
Issue 80 defines a temporary service or leasing employer in the same terms.

Rationale: Issue 142 has one match (North Carolina), and 52 no provision jurisdictions, and Issue 80 has four matches and 12 partial matches. Some of the Ano provision@ jurisdictions may follow the federal rule in that even without a specific statutory provision, they would hold that the leasing company would be the employer if the service is performed under the criteria listed. If a substantial number of the Ano provision@ jurisdictions follow such a rule, harmonization should be attempted.

Employer is defined as any employing unit which has elected to become subject to unemployment provisions B Issue 280.

Any employing unit for which services are performed that do not constitute employment may elect to become an employer with respect to such services B Issue 73.

Employer includes, for the effective period of its election, any other employing unit that has elected to become fully subject to this chapter B Issue 120.

Employment includes service covered by an election B Issue 357.

Rationale: Issues 73, 120, 280, and 357 all deal with the election of coverage. When those four issues are taken together, there are 50 matches and three no matches (two of which are the FICA and FUTA). Although there appears to be almost complete harmony with the concept, some jurisdictions deal with the concept differently. These provisions must remain for state UI purposes, but they are not relevant for FICA purposes. It should be noted that an employer could elect under UI, but still not be subject to FUTA.

Employing unit maintaining separate establishments means services within the state for any employing unit, that maintains two or more separate establishments within the state, shall be deemed to be employed by a single employing unit for all purposes B Issue 274.

Rationale: There are 37 matches and 16 no provision jurisdictions. This number of matches would normally indicate that this issue is a candidate for harmonization. It may be that this is an obsolete provision that was necessary when the threshold for achieving employer status was higher. Given the current employer status threshold, it is difficult to see the application of this provision today. When Issue 274 is analyzed with Issues 66, 71, and 129, there are a total of 40 matches.

Partial week defined states that if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week B Issue 145.

Rationale: There are 16 matches, one partial match, and 36 no provision jurisdictions. The significance of this definition is unclear as far as what purpose it serves and how that purpose is served.

Service shall be deemed to be localized in the state wherever such service is performed in the United States, if such service is not covered under unemployment compensation laws of any other state and the place from which such service is directed or controlled is in the state - Issue 353.

Rationale: This issue should be considered together with Issues 69 and 356, page C-41. When all three issues are taken together, and excluding FICA and FUTA, there is only one Ano provision@ jurisdiction. These issues go to the question of determining under which jurisdiction service, primarily of a temporary nature, is to be covered and, to prevent double taxation and coverage of the same service. The questions raised by these issues would have a direct impact on employer burden.

Lessor employing unit means any independently established business entity that engages in the business of providing leased employees to a client lessee B Issue 42.

Rationale: There are 26 matches, nine partial matches, and 18 no provision jurisdictions (including FICA and FUTA). Since this is simply a definition, it is neutral in and of itself. The consequences of the definition depend upon its application to another provision or provisions.

Institution of Higher Education Defined B Issue 41.

Rationale: There are 33 matches, eight partial matches, and 12 no provision jurisdictions. Given the number of matches and partial matches, this issue appears to be a candidate for harmonization. However, it raises the question of whether if this issue is harmonized, Issue 33, Educational Institution Defined, should not also be harmonized.

G. Exceptions that are not Outlyers

This is a list of provisions that were found in more than four jurisdictions. For each provision, the involved jurisdiction(s) should change their law to be in harmony with the HWC/UI. That is, the involved jurisdiction(s) should no longer except each items from Awages@ and/or Aemployment.@ Deletion of the provisions will result in the item no longer being an Aexception@ or Aexclusion,@ and the remuneration or services would become subject to tax, assuming the three-prong test is satisfied.

Wages do not include dismissal payments that the employer is not legally required to make - Issue 307.

Rationale: There are 10 matches and three partial matches for this exception from wages. Forty jurisdictions would require that this type of payment be included as wages. The payment of dismissal amounts, whether legally required to make or not, arises from the employment relationship and, as such, should be considered wages.

Wages do not include a scholarship benefit described in IRC ' 117 - Issue 485.

Rationale: There are eight matches, including FICA and FUTA, and 45 no provision jurisdictions. The number of individuals who qualify for the exclusion under IRC ' 117, where wages would be an issue, has been limited due to changes to IRC ' 117 over the years. In other words, because of the amendments made to IRC ' 117, if the recipient is an employee, the Ascholarship@ is subject to FICA and the provision is thus unnecessary. The elimination of the wage exclusion should have little impact today.

Wages do not include payments after the age of 65 if the employee did not work for the employer during the period for which such payment is made (stand-by payments) - Issue 306.

Rationale: There are 13 matches, one partial match, and 39 no provision jurisdictions. Today, this provision has little application, because employers no longer pay workers over age 65 to be on a stand-by status.

Education Assistance Programs under IRC ' 127 are excepted from wages B Issue 301.

Rationale: This is an expired issue.

H. Outlyers that are Neutral

These are provisions that the project team recommends be Aleft alone.@ For greater harmonization, an affected jurisdiction should delete the provision, but not doing so will not likely make a big difference.

Total wages means the total wages paid or payable by an employer during the calendar year B Issue 60.

Rationale: There is one match (Kansas), and 52 no provision jurisdictions.

Wages do not include refunds required to be made by an employer under Section 421 of the Federal Medicare Catastrophic Coverage Act of 1988 B Issue 326.

Rationale: There is one match (Wisconsin), and 52 no provision jurisdictions. This is an unnecessary provision. In all of the jurisdictions, such a payment would not be wages since it would not be remuneration for employment.

Employment does not include services performed by an individual who drives a taxicab, and whose compensation and written contractual arrangements are of the type rendering the operator not an employee B Issue 424.

Rationale: There are three matches (Arkansas, Maryland, and Virginia), one partial match, and 49 no provision jurisdictions. It is unclear why this provision is needed if the compensation and contractual arrangements do not render the operator an employee. This provision might have been designed as some kind of safe haven during a period when there was a lot of reclassification activity with respect to taxicab drivers. Not only are there few matches, but little will be accomplished by any attempt to harmonize this provision.

Not in the course of the employer=s trade or business defined - Issue 45.

Rationale: There are only two matches on this issue (Iowa and Maryland). It is possible that this definition is considered self-evident.

Employer shall not be determined to be an employer on the basis of covered employment performed more than four years prior to the year in which such determination is made, unless there is a finding that the records of such employment were fraudulent, concealed, or withheld for the purposes of escaping liability - Issue 143.

Rationale: There are two matches for this issue (Kentucky and Minnesota).

Contracts entered into for purposes of avoiding liability are unlawful. Employer status cannot be evaded B Issue 150.

Rationale: There is one match (Nebraska), and 52 no provision jurisdictions.

Circumstances under which an employer shall be deemed to be the employer for contract or subcontract work performed that is part of the employer=s usual trade or business defined B Issue 140.

Rationale: There is one match (Connecticut), and 52 no provision jurisdictions.

Employer includes any individual, legal entity, or employing unit described as a transferee B Issue 146.

Rationale: There is one match (Michigan), and 52 no provision jurisdictions. Although this is an important issue for the state, it is also probably self-evident. Moreover, it does not reduce employer burden.

APPENDIX D
OUTLYERS

1. **Wages do not include payments to an alien unless lawfully admitted for permanent residence.**

2. **Wages do not include payments of remuneration to a disabled worker during the year in which he or she became entitled to disability insurance benefits under the Social Security Act.**

3. **Wages do not include payments for any attendance bonus during or incident to any period of unemployment.**

4. **Wages do not include payments under a judgment, stipulation, transaction, or the voluntary act of an employer, in addition to the salary the employee is entitled to receive.**

5. **Wages do not include payments under the Comprehensive Employment and Training Act for services in public service employment unless federal funds are furnished to pay for the cost of any and all unemployment compensation paid as a result of such services.**

6. **Wages do not include remuneration paid to an informer or tipster by a governmental agency.**

7. **Wages do not include any loan repayment that is repaid at interest rates below established market rates.**

8. **Wages do not include payments by any town, city, or other political subdivision to an individual for services performed in lieu of payment of delinquent taxes.**

9. **Wages do not include supplemental payments made by an employer to an individual performing services, other than remuneration for services performed, under a shared work plan approved by the Director of UI.**

10. **Wages do not include voluntary unemployment tax contributions from an employer who is not liable.**

11. **Wages do not include payments to an employee by a business entity in which 50 percent or more of the proprietary interest is owned by such employee, or his or her son, daughter, spouse, father, or mother, unless FUTA is payable.**

12. **Wages do not include compensation paid to the owner or owners who are sole proprietors of an unincorporated employing unit.**

13. **Wages do not include payments of back pay awarded by an order directed solely to a union where the employer is not a party to the proceeding.**

14. **Wages do not include payments of vacation pay, severance pay, or saving plans received by an individual before becoming totally or partially unemployed but earned prior to becoming totally or partially unemployed.**

15. **Employment does not include services performed by a registered sales representative for a travel agency when a service is performed solely by way of commission.**

16. **Employment does not include services as a timber worker engaged in the harvesting of timber or the transportation of timber to market, nor does it include services as a stone artisan engaged in services including sculpting, etching, or carving quarried stone if the individual qualifies as an independent contractor.**

17. **Employment does not include service for Americorps.**

18. **Employment does not include yacht salespersons performing services for a licensed trader where payment is solely by commission.**

19. **Employment does not include services as a member of a board of directors, board of trustees, or board of managers, where such services are not the principal employment of the individual.**

20. **Employment does not include service performed for a motor carrier by a lessor leasing vehicles driven by the lessor, or one or more drivers provided by the lessor, with the motor carrier as lessee.**

21. **Employment does not include services performed for an employer who is a common carrier of persons or property by an individual, firm, or corporation, as commission agent in disseminating information with respect to and selling transportation of persons or property and in maintaining facilities incidental thereto, including waiting areas, dining rooms, and rest rooms for passengers and storage space for property.**

22. **Employment does not include service making motion pictures or television commercials for fewer than 14 days during any calendar year.**

23. **Employment does not include service by athletes, who are neither citizens or residents of the United States, who come into the state occasionally.**

24. **Employment does not include services provided by an individual pursuant to an agreement among the service recipient, a public human services agency, and such individual to an eligible service recipient in his or her own home or the home of the service provider.**

25. **Employment does not include childcare service provided through the Adult and Family Services Division to an individual who is the recipient of public assistance.**

26. **Employment does not include services performed by an individual for any political caucus, committee, headquarters, or other group of like nature not established on a permanent basis.**

27. **Employment does not include services by individuals who are metal mining lessees under lease agreements unless the lease agreement or practice in actual operation is such as would constitute the lessees as employees of the lessor in common law.**

28. **Employment does not include services by individuals who are mining lessees under lease agreements unless the lease agreement or practice in actual operation is such as would constitute the lessees as employees of the lessor in common law.**

29. **Employment does not include services performed for a nonprofit organization by a person participating in a youth service program.**

30. **Employment does not include service for a nonprofit organization in connection with a symphony, opera, play, pageant, festival, rodeo, or similar event.**

31. **Officers of nonprofit fraternal organizations, civic organizations, clubs, or unions, which are not subject to FUTA, are excepted from employment if the remuneration for such service does not exceed $100 per month.**

32. **Employment includes any service in an artistic or literary capacity performed under a collective bargaining agreement in the motion picture, radio, or television industry where the employer has the right to control and direct the services and the worker is defined as an employee under the terms of the agreement.**

33. **Employment includes services performed no matter how paid.**

34. **Employment does not include the services of a freelance journalist.**

35. **Employment does not include services performed by an individual in the delivery or messenger service business.**

36. **Employment does not include services by a licensed massage practitioner if the individual receives no remuneration from the owner of the business from which the services are performed.**

37. **Employment does not include services performed as an intermittent or adjunct instructor at a post secondary educational institution.**

38. **Employment does not include services performed by an individual preparing income tax returns and schedules if compensated solely by way of commissions.**

39. **Employment does not include services performed by installers of floor coverings.**

40. **Employment does not include services provided by a contract interviewer.**

41. **Employment does not include services performed by jockeys.**

42. **Employment does not include services as an official or participant at an amateur sports event.**

43. **Employment does not include services performed by an individual, who under the Federal Economic Act of 1964, is not subject to federal laws concerning unemployment compensation.**

44. **Employment does not include services performed by a home worker in the knitted outerwear industry.**

45. **Employment does not include services performed in connection with illegal gambling.**

46. **Employment does not include services performed for a family-owned private corporation that employs only members of the family who each own at least 50 percent of the shares issued by the corporation provided that the corporation elects to be excluded from coverage.**

47. **Employment does not include services by a volunteer research subject paid on a per-study basis for scientific, medical, or drug-related testing for any organization that is not a nonprofit organization.**

48. **Employment does not include unpaid services under a community work and training program or participation by volunteers.**

49. **Employment does not include services by non-salaried occupational, physical, and speech therapists working pursuant to a written contract with a home health agency.**

50. **Employment does not include services performed by nurses, technicians, and other professional employees of hospitals if no part of the net earning of the hospital inures to the benefit of a private shareholder or individual, unless the service is required to be covered by FUTA.**

51. **Employment does not include services as a transcriber of depositions, court proceedings, or hearings performed away from the office of the person, firm, or association obligated to produce a transcript of these proceedings.**

52. **Employment does not include services as a certified freelance shorthand reporter.**

53. **Employment does not include services by an oil and gas contract pumper.**

54. **Employment does not include services performed by an individual for an employing unit as an agent in the wholesale distribution and sale of gasoline and other petroleum products if compensated solely by way of commission.**

55. **Employment does not include petroleum product distributors.**

56. **Employment does not include services performed by an individual as a landman if substantially all of the remuneration is directly related to sales or other output.**

57. **Employment does not include services performed as a securities salesman if compensated solely by way of commission.**

58. **Employment does not include services performed by an agent of a mutual fund broker or dealer in the sale of mutual funds or other securities if compensated wholly on a commission basis.**

59. **Employment does not include services performed by agents of mutual benefit associations compensated solely by way of commissions.**

60. **Employment does not include services by individuals who, on a temporary part-time basis, demonstrate or give away samples of food products as part of advertising or sales promotions in stores that sell food as retail, and who are not otherwise directly employed by the manufacturer, distributor, or retailer.**

61. **Employment does not include service by an individual if such individual has been and will continue to be free from control and direction; the service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business; and such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.**

62. **Employment does not include professional services performed by a consultant working as an independent contractor.**

63. **Employment does not include service performed for one or more principals by an individual compensated on commission, who, in the performance of the work, is master of his/her own time and effort, and whose remuneration is wholly dependent on the amount of effort he/she chooses to expend, and which service is not subject to the FUTA.**

64. **Casual labor defined means service of less than two consecutive weeks and not in the normal course of business.**

65. **Employer shall not include a for-hire motor carrier whose operations are confined to a commercial zone with respect to a lessor or a driver receiving remuneration from a lessor.**

66. **Employer means any employing unit, which pursuant to a collective bargaining agreement, pays wages to individuals in the motion picture, radio, or television industry.**

67. **Employer includes any employing unit which employs individuals to perform domestic service comprising of in-home supportive services and is (a) the recipient of such services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of such services; (b) the individual or entity with whom a county contracts to provide in-home services; (c) any county which hires and directs in-home personnel.**

68. **Employing Unit includes any organization or political agency authorizing the hiring of home workers, personal care attendants, or other individuals performing similar services in the private home of an individual whether the agency pays the employee directly or provides funds to the recipient of the services to pay for the services.**

69. **Employer does not include a county department or aging unit that serves as a fiscal agent or contracts with a fiscal intermediary as to any individual performing services for a person receiving long-term support or personal assistance services.**

70. All individuals performing services in the employ of an elected fee-paid county official, other than those related by blood or marriage, shall be deemed to be employed by such county as the employing unit.

71. Employee leasing company means an employing unit which maintains a valid and active license and records listing clients and employees who have been assigned.

72. A person that meets the definition of Alessor employing unit@ shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit.

73. Employer includes all partnerships consisting of the same partners except that employer means each partnership consisting of the same partners if (1) each partnership maintains separate accounting records; (2) each partnership otherwise qualifies as an employer; (3) each partnership files a written request to be treated as an employer; and (4) the request is approved.

74. The owner or operator of a beauty salon or similar establishment shall not be determined to be the employer of a person who utilizes the facilities of the owner or operator but who receives neither salary, wages, or other compensation from the owner or operator and who pays the owner/operator rent or other payments for use of the facilities.

75. Employer includes any person contracting for the creation of a specially ordered or commissioned work of authorship, when the parties expressly agree in a written instrument signed by them that the work shall be considered a work Amade for hire@ and the ordering or commissioning party obtains ownership of all the rights comprised in the copyright of the work. The ordering or commissioning party shall be the employer of the author of the work.

76. The Department of Rehabilitation shall be considered the employer of blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, in connection with their employment by the state for work in the State Industries for the Blind.

77. Related Corporations Defined.

78. Seasonal Employer Defined.

79. Seasonal Employment Defined.

80. Seasonal Worker Defined.

81. School Defined.

82. School Year Employee Defined.

83. Full-time Student Defined.

84. Education Service Agency Defined.

85. Employing unit includes any federal instrumentality, which is neither wholly nor partially owned by the United States.

86. Nonprofit organization means an organization described in IRC ' 501(c)(3).

87. Employer includes any employing unit which maintains an operating office within the states from which an American vessel is supervised, managed, directed, and controlled; provided that the employing unit would otherwise be an employer.

88. An employing unit failing to keep records is presumed to be an employer.

89. Reorganized employer means (1) an employer that alters its legal status, or (2) an employer that otherwise changes its trade name or business identity while remaining under substantially the same ownership.

90. Employer includes any nonresident employing unit that employs, within the state, one or more employees for one or more weeks.

91. Employment does not include services of a corporate executive, including a board member, if the individual is a majority shareholder.

92. Employment does not include services as a golf caddie.

93. Employment does not include service as a barber or cosmetologist if such service is performed by an individual for remuneration solely by way of commission.

94. Employment does not include services performed by a full time student in the employ of an organized camp.

95. Employment does not include services performed as a product demonstrator if the individual is not treated as an employee for FUTA purposes.

APPENDIX E
RECOMMENDED CHANGES BY STATE

State: Alabama

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only which is received€ under a workman=s compensation law€	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
312, 455	Wages, employment and or the term employee does not include€ the services performed by a director of a corporation €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	

State: Alaska

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
391	Employment excludes domestic service performed in a private€ home, local college club, or local chapter of a college fraternity€ or sorority unless performed for a person who paid cash€ remuneration of $1,000 or more in any calendar quarter in the€ current calendar year or preceding calendar year to individuals€ employed in such domestic service€	Partial€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
411	Employment does not include service by an individual in the€ exercise of his or her duties as a member of a legislative body€ or judiciary€	Yes€	
414	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual in the exercise of his or her duties in a position€ which is designated as (1) a major policy making, or (2)€ advisory position, or (3) a policy making position which does€ not require more than 8 hours per week€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Arizona

Issue No.	Description	Change Required	Comments
308	Wages do not include supplemental unemployment benefits	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
476	Employment does not include service for AmeriCorps	Yes	

State: Arkansas

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Partial	No age limit€
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
413	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	

State: California

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Partial	Limits categories€
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	

State: Colorado

Issue No.	Description	Change Required	Comments
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes	
400	Employment does not include services as a student nurse in the employ of a hospital or nurses training school	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
476	Employment does not include service for AmeriCorps	Yes	

State: Connecticut

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Delaware

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial	No restrictions€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	

State: District of Columbia

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes	
308	Wages do not include supplemental unemployment benefits	Yes€	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation €	Yes€	
391	Employment excludes domestic service performed in a private home, local college club, or local chapter of a college fraternity€ or sorority unless performed for a person who paid cash€ remuneration of $1,000 or more in any calendar quarter in the€ current calendar year or preceding calendar year to individuals€ employed in such domestic service€	Yes€	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens under F, J. M, or Q visas€	Yes€	
410	Employment does not include service in the employ of a governmental entity if such service is performed by an€ individual in the exercise of his or her duties as an elected€ official €	Yes€	
411	Employment does not include service by an individual in the exercise of his or her duties as a member of a legislative body or judiciary	Yes	
412	Employment does not include service performed by an individual in the exercise of his or her duties as a member of the State National Guard or Air National Guard	Yes	
413	Employment does not include service in the employ of a governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€	

414	Employment does not include service in the employ of a governmental entity if such service is performed by an€ individual in the exercise of his or her duties in a position€ which is designated as (1) a major policy making, or (2)€ advisory position, or (3) a policy making position which does€ not require more than 8 hours per week B	Yes€
422	Employment does not include service to the Court as a juror	Yes
422	Employment does not include services to the Court for serving on a jury	Yes
476	Employment does not include service for AmeriCorps	Yes
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes
483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€

State: Florida

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the employer=s trade or business	Yes	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes	
308	Wages do not include supplemental unemployment benefits	Yes	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
412	Employment does not include service performed by an individual in the exercise of his or her duties as a member of the State National Guard or Air National Guard	Yes	
476	Employment does not include service for AmeriCorps	Yes	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes	

State: Georgia

Issue No.	Description	Change Required	Comments
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
413	Employment does not include service in the employ of a governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€	
476	Employment does not include service for AmeriCorps	Yes€	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129 €	Yes€	

State: Hawaii

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
408	Employment does not apply to services in the employ of a€ church or convention of churches; service in the employ of an€ organization operated primarily for religious purposes which is€ operated, supervised, controlled or principally supported by a€ church or convention of churches.€	Yes€	
410	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual in the exercise of his or her duties as an elected€ official €	Yes€	
411	Employment does not include service by an individual in the€ exercise of his or her duties as a member of a legislative body€ or judiciary€	Yes€	
412	Employment does not include service performed by an€ individual in the exercise of his or her duties as a member of€ the State National Guard or Air National Guard€	Yes€	
413	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€	
414	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual in the exercise of his or her duties in a position€ which is designated as (1) a major policy making, or (2)€ advisory position, or (3) a policy making position which does€ not require more than 8 hours per week B	Yes€	

415	Employment does not include service in a facility rehabilitating€ individuals whose earning capacity is impaired by age, injury,€ or physical or mental deficiency by an individual receiving€ such rehabilitation €	Yes€
416	Employment does not include services in a facility conducted€ for the purpose of carrying out a program of providing work€ for individuals who cannot be readily absorbed in the labor€ market€	Yes€
417	Employment does not include services as part of an€ unemployment work relief or work training program financed€ in whole or in part by governmental assistance €	Yes€
418	Employment does not include services by an inmate of a€ custodial or penal institution €	Yes€
422	Employment does not include service to the Court as a juror €	Yes€
422	Employment does not include services to the Court for serving€ on a jury€	Yes€
476	Employment does not include service for AmeriCorps €	Yes€
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Partial€

State: Idaho

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Illinois

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Indiana

Issue No.	Description	Change Required	Comments
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
308	Wages do not include supplemental unemployment benefits	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule €	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens under F, J. M, or Q visas€	Yes€	

State: Iowa

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Partial€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Yes€	

State: Kansas

Issue No.	Description	Change Required	Comments
308	Wages do not include supplemental unemployment benefits	Yes	
400	Employment does not include services as a student nurse in the employ of a hospital or nurses training school	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	

State: Kentucky

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Louisiana

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay that is received under a€ workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Maine

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	

State: Maryland

Issue No.	Description	Change Required	Comments
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
418	Employment does not include services by an inmate of a€ custodial or penal institution €	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Massachusetts

Issue No.	Description	Change Required	Comments
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation €	Yes€	
403	Employment does not include service performed in the employ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps	Yes€	

State: Michigan

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay that is received under a workman=s compensation law	Yes	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes€	
400	Employment does not include services as a student nurse in the employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps	Yes€	
483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	

State: Minnesota

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Yes€	

State: Mississippi

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Missouri

Issue No.	Description	Change Required	Comments
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Partial€	
312, 455	Wages, employment and or the term employee does not include€ the services performed by a director of a corporation €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Montana

Issue No.	Description	Change Required	Comments
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Partial€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
408	Employment does not apply to services in the employ of a€ church or convention of churches; service in the employ of an€ organization operated primarily for religious purposes which is€ operated, supervised, controlled or principally supported by a€ church or convention of churches.€	Yes€	
411	Employment does not include service by an individual in the€ exercise of his or her duties as a member of a legislative body€ or judiciary€	Yes€	

412	Employment does not include service performed by an individual in the exercise of his or her duties as a member of€ the State National Guard or Air National Guard€	Yes€
413	Employment does not include service in the employ of a governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€
422	Employment does not include service to the Court as a juror	Yes
422	Employment does not include services to the Court for serving on a jury	Yes
476	Employment does not include service for AmeriCorps	Yes
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes
483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€
484	Wages do not include any benefit provided to or on behalf of an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€

State: Nebraska

Issue No.	Description	Change Required	Comments
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial	Clarification€ desirable€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Yes€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Nevada

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
422	Employment does not include service to the Court as a juror €	Yes€	
422	Employment does not include services to the Court for serving€ on a jury€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€

State: New Hampshire

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received under a workman=s compensation law	Yes	
293	Wages do not include sick pay paid after 6 months following the last month in which the employee worked for the employer	Yes	
297	Wages do not include payment paid to or on behalf of an employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Yes€	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation	Yes	
400	Employment does not include services as a student nurse in the employ of a hospital or nurses training school	Yes	
401	Employment does not include services performed as an insurance agent or solicitor if compensated solely by way of commissions	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
476	Employment does not include service for AmeriCorps	Yes	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes	
483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	

State: New Jersey

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: New Mexico

Issue No.	Description	Change Required	Comments
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial	Clarification€ needed€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: New York

Issue No.	Description	Change Required	Comments
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
391	Employment excludes domestic service performed in a private€ home, local college club, or local chapter of a college fraternity€ or sorority unless performed for a person who paid cash€ remuneration of $1,000 or more in any calendar quarter in the€ current calendar year or preceding calendar year to individuals€ employed in such domestic service€	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
417	Employment does not include services as part of an€ unemployment work relief or work training program financed€ in whole or in part by governmental assistance €	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	

484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Yes€

State: North Carolina

Issue No.	Description	Change Required	Comments
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: North Dakota

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of employee FICA or employee UI taxes for wages paid for domestic service in a private home or for agricultural labor	Partial	Excludes all employer paid FICA
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits	Yes	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
476	Employment does not include service for AmeriCorps	Yes	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes	
483	Wages dos not include any payment made under a cafeteria plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	

State: Ohio

Issue No.	Description	Change Required	Comments
308	Wages do not include supplemental unemployment benefits €	Yes€	
391	Employment excludes domestic service performed in a private€ home, local college club, or local chapter of a college fraternity€ or sorority unless performed for a person who paid cash€ remuneration of $1,000 or more in any calendar quarter in the€ current calendar year or preceding calendar year to individuals€ employed in such domestic service€	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
417	Employment does not include services as part of an€ unemployment work relief or work training program financed€ in whole or in part by governmental assistance €	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	

State: Oklahoma

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	

State: Oregon

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of employee FICA or employee UI taxes for wages paid for domestic service in a private home or for agricultural labor	Yes	
296	Wages do not include non-cash payments outside the employer=s trade or business	Yes	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
302	Wages do not include meals or lodging furnished for the convenience of the employer	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
304	Wages do not include any benefit provided to an employee if it is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes	
308	Wages do not include supplemental unemployment benefits	Yes€	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation €	Yes€	
403	Employment does not include service performed in the employ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps	Yes€	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes	
484	Wages do not include any benefit provided to or on behalf of an employee if it is reasonable to believe the employee will be able to exclude such benefit from income under IRC 132	Yes	

State: Pennsylvania

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
422	Employment does not include service to the Court as a juror €	Yes€	
422	Employment does not include services to the Court for serving€ on a jury€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Rhode Island

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: South Carolina

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Partial€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: South Dakota

Issue No.	Description	Change Required	Comments
293	Wages do not include sick pay paid after 6 months following the last month in which the employee worked for the employer	Yes	
295	Wages do not include employer payment without deduction of employee FICA or employee UI taxes for wages paid for domestic service in a private home or for agricultural labor	Partial	Excludes all employer paid FICA
296	Wages do not include non-cash payments outside the employer=s trade or business	Yes	
298	Wages do not include payments for retirement for disability, other than payments the employee would have otherwise received	Yes	
303, 478, 479	Wages do not include any payment made after the calendar year of death; any payment paid on account of death; and any payment paid upon the death of the employee	Partial	
308	Wages do not include supplemental unemployment benefits	Yes	
312, 455	Wages, employment and or the term employee does not include the services performed by a director of a corporation	Yes	
403	Employment does not include service performed in the employ of an international organization	Yes	
404	Employment does not include services engaged in fishing under the Aten net ton@ rule	Yes	
405	Employment does not include services engaged on a boat under the Ashare of the Catch@ provisions	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
422	Employment does not include services to the Court for serving on a jury	Yes	
476	Employment does not include service for AmeriCorps	Yes	
480	Wages do not include payments for dependent care assistance programs as defined in IRC 129	Yes	

State: Tennessee

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Partial€	

State: Texas

Issue No.	Description	Change Required	Comments
292	Wages do not include sick pay but only that which is received€ under a workman=s compensation law€	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
412	Employment does not include service performed by an€ individual in the exercise of his or her duties as a member of€ the State National Guard or Air National Guard€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Yes€	

State: Utah

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Vermont

Issue No.	Description	Change Required	Comments
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
297	Wages do not include payment paid to or on behalf of an€ employee it at the time of the payments it is reasonable to€ believe that a corresponding deduction is allowable under IRC€ section 217, relating to moving expenses €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	
483	Wages dos not include any payment made under a cafeteria€ plan within the meaning of section 125 if the IRC if such€ payment would not be treated as wages without regard to such€ plan €	Yes€	
484	Wages do not include any benefit provided to or on behalf of€ an employee if it is reasonable to believe the employee will be€ able to exclude such benefit from income under IRC 132 €	Yes€	

State: Virginia

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Washington

Issue No.	Description	Change Required	Comments
293	Wages do not include sick pay paid after 6 months following€ the last month in which the employee worked for the employer €	Yes€	
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	Excludes all€ employer paid€ FICA€
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Partial	Percentage€ ceiling€
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
413	Employment does not include service in the employ of a€ governmental entity if such service is performed by an€ individual serving on a temporary basis in case of fire, storm,€ snow, earthquake, flood, or similar emergency€	Yes€	
422	Employment does not include service to the Court as a juror €	Yes€	
422	Employment does not include services to the Court for serving€ on a jury€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: West Virginia

Issue No.	Description	Change Required	Comments
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
302	Wages do not include meals or lodging furnished for the€ convenience of the employer €	Yes€	
303, 478, 479	Wages do not include any payment made after the calendar€ year of death; any payment paid on account of death; and any€ payment paid upon the death of the employee €	Partial€	
304	Wages do not include any benefit provided to an employee if it€ is reasonable to believe that such benefit will be excluded from€ income under IRC section 74(c) as an employee achievement€ award €	Yes€	
308	Wages do not include supplemental unemployment benefits €	Yes€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Partial	Excepts more€ categories€
402	Employment does not include service by an individual under€ the age of 18 in the delivery of newspapers €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	
480	Wages do not include payments for dependent care assistance€ programs as defined in IRC 129 €	Yes€	

State: Wisconsin

Issue No.	Description	Change Required	Comments
402	Employment does not include service by an individual under the age of 18 in the delivery of newspapers	Partial	
403	Employment does not include service performed in the employ of an international organization	Yes	
406	Employment does not include services performed by aliens under F, J. M, or Q visas	Yes	
476	Employment does not include service for AmeriCorps	Yes	

State: Wyoming

Issue No.	Description	Change Required	Comments
295	Wages do not include employer payment without deduction of€ employee FICA or employee UI taxes for wages paid for€ domestic service in a private home or for agricultural labor €	Partial	All employer€ paid FICA€ excluded€
296	Wages do not include non-cash payments outside the€ employer=s trade or business €	Yes€	
298	Wages do not include payments for retirement for disability,€ other than payments the employee would have otherwise€ received €	Yes€	
309	Wages do not include advances and reimbursements of€ employee business expenses incurred on behalf of the€ employer under an accountable plan €	Partial€	
400	Employment does not include services as a student nurse in the€ employ of a hospital or nurses training school €	Yes€	
401	Employment does not include services performed as an€ insurance agent or solicitor if compensated solely by way of€ commissions €	Yes€	
403	Employment does not include service performed in the employ€ of an international organization€	Yes€	
404	Employment does not include services engaged in fishing€ under the Aten net ton@ rule €	Yes€	
405	Employment does not include services engaged on a boat under€ the Ashare of the Catch@ provisions €	Yes€	
406	Employment does not include services performed by aliens€ under F, J. M, or Q visas€	Yes€	
476	Employment does not include service for AmeriCorps €	Yes€	

sNDNOTES

The views and suggestions herein are those of the HWC project, based on research and the input€ and recommendations of interested stakeholders, including members of the Harmonized Wage€ Code Working Group. Working Group members represent the federal government, state€ government, and employer perspectives. A complete list of Working Group members may be€ found in Appendix B.€

.he jurisdictions are the 50 states, the District of Columbia, FICA, and the United States.€

.ecommendations for changes to the tax laws must be approved by Department of the Treasury€ and the Office of Management and Budget (OMB).€

.he U.S. Department of Labor provides guidance to the states in the administration of the FUTA.€

.he HWC project has not dealt with the difficult issue of defining an employee under the€ common law rules, as defined in the federal employment tax regulations. This is an issue that€ Congress has reserved to itself under Section 530 of the Revenue Act of 1978.€