

<b>Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Grants/Cost Allocation
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**TRAINING AND EMPLOYMENT GUIDANCE LETTER No. 6-05**

**TO:** ALL STATE WORKFORCE AGENCIES  
ALL STATE WORKFORCE LIAISONS  
ALL ONE-STOP CENTER SYSTEM LEADS

**FROM:** EMILY STOVER DeROCCO   
Assistant Secretary

**SUBJECT:** Allocation of Costs of Assessing and Collecting State Taxes that are Collected in Conjunction with the State Unemployment Compensation Tax

1. Purpose. To provide guidance to the states in determining and allocating the costs of assessing and collecting state taxes that are collected along with state unemployment compensation (UC) taxes, but are not used solely for UC purposes.
2. References. Title III of the Social Security Act (SSA); 39 U.S.C. 3201(1); 29 CFR 97.22; Office of Management and Budget (OMB) Circular No. A-87, "Cost Principles for State and Local Governments" (as revised May 10, 2004); General Administration Letter (GAL) No. 4-91; Unemployment Insurance Program Letter (UIPL) No. 25-92; and One-Stop Comprehensive Financial Management Technical Assistance Guide, Part II.
3. Background. The laws in many states require the state UC agency to collect taxes that are used for non-UC purposes, and additional states have considered enacting such laws. Examples of non-UC taxes collected by state UC agencies include personal income, temporary disability, economic development, and job training-related taxes.

In GAL 4-91, the Department outlined the requirements related to the costs of collecting these non-UC taxes. Specifically, these costs may not be paid from UC grant funds, and when a state UC agency collects non-UC taxes, the state must submit a plan for allocating such costs. Although that GAL has expired, these requirements remain in effect.

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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This advisory is being issued to eliminate any confusion caused by the expiration of GAL 4-91. Also, although this advisory merely states what is already required by Federal law and regulation regarding cost allocation for all Federal grants to states, states have found it useful to have a concise statement of these requirements available, particularly as it regards tax collection.

4. Federal law and cost principles. Section 302(a), SSA, provides that the Secretary of Labor shall certify for payment to a state such amounts as the Secretary determines to be necessary for the proper and efficient administration of the state's UC law. These payments are sometimes referred to as Title III grants. Further, Section 303(a)(8), SSA, provides that, as a condition of receiving a Title III grant, the state may expend its Title III grant solely "for the proper and efficient administration" of the state's UC law. Since state UC tax administration is an integral part of administering a state's UC law, these administrative costs may be charged to Title III grants consistent with Federal laws and regulations. Conversely, since collecting taxes that will not be used for state UC purposes is not necessary for the proper and efficient administration of a state's UC law, the costs of collecting those taxes may not be charged to Title III grants.

Departmental regulations at 29 CFR 97.22(b) provide that, for purposes of determining allowable costs under a grant to a state (including the Title III grant), the Department will follow the cost principles in OMB Circular A-87. Section C.3 of Attachment A of the Circular provides that –

(a) A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

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(d) Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required. . . .

Applying these principles to Title III grants, a cost allocation plan must be developed whenever a state UC agency incurs costs for a "cost objective" unrelated to the administration of the UC program. Collection of a tax that is not used entirely for Title III (that is, UC) purposes is such a cost objective.

5. Application.
  - a. In general. Whenever a state UC agency collects a tax that is not used entirely for UC purposes, the state must obtain the cognizant Federal agency's approval of its plan for allocating the costs of assessing, processing, and collecting the tax. The following indicates whether Title III grants may be used to collect a tax and whether collection of the particular tax requires a plan for allocating costs:

- Title III grants may be used to administer a tax when all revenues from the tax are (1) deposited in the state's unemployment fund to be used for the payment of compensation, (2) used to pay interest on advances under Title XII, SSA, or (3) used for the administration of the UC program. No cost allocation plan is required.
- Title III funds may not be used for *any* costs of collecting a tax that is used entirely for non-UC purposes, such as administering other workforce programs (including providing employment services to UC claimants), job training, economic development, temporary disability payments, health related benefits, or state income tax. A cost allocation plan is required.
- Title III grants may be used in proportion to the benefit received by the UC program if a portion of the revenues of a tax are used for UC purposes and a portion for non-UC purposes. A cost allocation plan is required.

Cost allocation plans addressing taxes will generally be included with the state's annual submission of its Indirect Cost Rate Proposal. However, in some cases (such as newly enacted taxes that are assessed immediately after enactment), it will be necessary to submit the tax plan as soon as possible to assure proper allocation of costs.

- Taxes which *might* be used for UC purposes. Many state UC agencies collect taxes which permit (but do not require) the revenues, or a part thereof, to be used for UC purposes. As a result, there is no guarantee that the UC program will receive any benefit from these taxes. For any year in which such taxes are collected, the state's cost allocation plan will need to address, to the extent possible and taking into account prior history regarding the tax's revenues, whether any of the revenues will be used for UC purposes.
- Penalty mail. When a UC agency collects a tax that is not solely restricted to UC purposes, penalty mail, as defined in 39 U.S.C. 3201(1), must not be used for any mailing related to the tax, whether or not the mailing also includes UC material. When a state UC agency collects a tax (or taxes) for other than UC purposes, the allocation of postage costs between the programs supported by the tax (or taxes) must be addressed in the state's cost allocation plan.
- Use of non-UC grants and state financing. Funds granted for administering the Wagner-Peyser Act and the Workforce Investment Act are restricted to activities in support of the specific purposes set forth in those Acts. Unlike Federal UC law, these Acts do not authorize the collection of taxes, even if tax revenues enhance program activities performed under either of these Acts. As a result, funds granted under these Acts may not under any circumstances be used to collect any tax revenues. Aside from any Federal limitations on the use of granted funds, states are otherwise free to determine how to

finance the costs of collecting non-UC or mixed-use taxes. States may use state general revenues or deduct the costs of collection from the revenues generated by the non-UC or mixed-use tax.

- e. Identification of taxes for FUTA credit purposes. States must assure that employers are aware that only contributions deposited in the state's unemployment fund may be used to obtain credit against the Federal unemployment tax. See UIPL 25-92. (This matter does not need to be addressed in the cost allocation plan.)
6. Action required. Administrators should distribute this advisory to appropriate staff.
7. Inquiries. Please direct questions to the appropriate Regional Office.