



## **DEPARTMENT OF LABOR**

### **Employment and Training Administration**

Notice of Listening Sessions on Implementation of Unemployment Insurance Provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96)

**AGENCY:** Employment and Training Administration (ETA), Labor

**ACTION:** Notice and request for participation in listening sessions.

**SUMMARY:** This notice announces listening sessions designed to gain input from employers, labor organizations, State workforce agencies, and relevant program experts on the implementation of provisions of the Middle Class Tax Relief and Job Creation Act of 2012 related to Short Time Compensation (STC) and Self Employment Assistance (SEA) programs. Specifically the Department of Labor (Department) is interested in hearing from stakeholders on the following issues:

- Model State legislation to support implementation of the two programs;
- Guidance and technical assistance to States; and
- Reporting requirements.

**TIMES AND DATES:** The listening sessions for the STC and SEA programs are as follows:

Short Time Compensation

Monday, March 19, 2012 at 1:00 pm EST

Tuesday, March 20, 2012 at 3:00pm EST

Self Employment Assistance

Monday, March 19, 2012 at 3:00 pm EST

Tuesday, March 20, 2012 at 1:00pm EST

**SUPPLEMENTARY INFORMATION:**

**TO REGISTER:** You must be a register user of Workforce3 One to participate in the listening sessions. To register for Workforce 3 One go to [www.workforce3one.org](http://www.workforce3one.org). To register for the listening sessions please visit:

<https://www.workforce3one.org/view/1001206655621113753/info> to register. Once an individual has registered, an email will be sent with detailed instructions for accessing the listening session and for dialing into the conference call line. The listening sessions will be recorded. Space is limited, so please only register for one STC session and one SEA session.

**BACKGROUND:** The Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96) (Act) includes within it Title II – Unemployment Benefit Continuation and Program Improvement, which contains Subtitle D – Short-Time Compensation Program, that has new provisions that promote significant expansion of the STC program (also known as work sharing) and Subtitle E, - Self-Employment Assistance, both provide incentives for States to implement these programs. Below are summaries of the provisions for both the STC and SEA programs in the Act.

**Short Time Compensation Program:**

The Act codifies and expands the existing definition of STC by amending section 3306, Federal Unemployment Tax Act (FUTA), to add a new subsection defining “short-time compensation program” as a program under which:

- Employer participation is voluntary;
- Employers reduce employee hours in lieu of layoffs;
- The reduction of hours is at least 10 percent and not more than 60 percent and employees are not disqualified from unemployment compensation;
- Employees receive a pro rata share of unemployment benefits that they would have received if totally unemployed;
- Employees meet work availability and work search requirements if they are available for their workweek as required;
- Eligible employees may participate in appropriate training, either employer sponsored or funded under the Workforce Investment Act of 1998;
- Employers are required to certify that, if health and retirement benefits are provided, those benefits will not be reduced due to participation in the STC program; and
- The State unemployment insurance agency requires the employer to submit a written plan describing how the requirements of this subsection will be implemented, with an estimate of the number of layoffs that would have occurred but for the STC program; the plan must be consistent with employer obligations under Federal law.

The Act provides for a transition period and effective date for existing programs that can be either the date the State changes its law or 2 years and 6 months after the enactment of

the Act. Except for the transition period, the STC provisions are effective upon enactment, pending guidance from the Department.

The Act provides for two ways that States may implement and/or expand their STC programs. To encourage States to implement permanent STC programs, the Act provides for 100 percent reimbursement of the amount of STC paid under a program meeting the new definition for an STC program in section 3306(v), up to 26 times the amount of regular compensation, including dependents' allowances, payable to the individual under State law. However, no payments may be made to a State for STC benefits paid to an individual who is employed on a seasonal, temporary, or intermittent basis. States operating an STC program under the old definition will be eligible for 2 years of reimbursement until they amend their laws to conform to the new definition under 3306(v). Payments are available for STC programs for weeks of unemployment beginning on or after February 22, 2012, and ending on or before the date that is 3 years and 6 months after the date of enactment.

To enable States that need to enact new State legislation, which could take time, the Act also provides for a temporary Federal STC program. If a State's law does not provide for payment of STC, States may enter into an agreement with the Secretary OF Labor (Secretary) such that the State will be paid, by way of reimbursement, one-half of the amount of STC paid to individuals pursuant to the agreement, and any additional administrative expenses incurred by reason of the agreement. States that want to take advantage of the new temporary Federal program must enter into an agreement with the Secretary to provide STC to individuals. States are reimbursed one-half of benefits paid under this option and participating employers must pay the remaining one-half of the

amount of STC paid by the State. The money must be deposited into the State's unemployment trust fund and may not be used to calculate the employer's contribution rate. An agreement entered into under this section applies to weeks of unemployment beginning on or after the date on which the agreement is entered into, and ending on or before the date that is 2 years and 13 months after the date of enactment of the Act.

States may receive payments under this section "with respect to a total of not more than 104 weeks." States may receive funding for both programs for a total of not more than 156 weeks.

In addition to Federal reimbursement for benefits paid to States for either a permanent STC program or the temporary Federal STC program, the Act provides for grants to States for implementation or improved administration of enacted STC programs and promotion and enrollment of employers to participate in the program. States that have an STC program that does not meet the requirements of section 3306(v) of the FUTA, or that have a program under the terms of an agreement with the Secretary, are not eligible for grants under this section. In addition, States with STC programs subject to discontinuation, or which are not scheduled to take effect within 12 months of certification, may not receive grants. The Act provides a formula for calculating the maximum amount of grants available to a State, and further provides that one-third of the maximum incentive payment to a State is available for implementation or improved administration and two-thirds is available for promotion and enrollment. The Act also requires the Secretary to establish a process to recoup grant funds if it is determined that, during the 5-year period beginning with the first date a grant is awarded to a State, the

State terminated the STC program or failed to meet appropriate requirements for the program.

With regard to these provisions the Secretary is required to:

- Develop and periodically review and revise, model legislative language that States may use to develop and enact STC programs;
- Provide technical assistance and guidance to States in developing, enacting, and implementing such programs;
- Establish reporting requirements for the number of estimated averted layoffs, number of participating employers, and other reporting as the Secretary may require; and
- Consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance.

**Self-Employment Assistance (SEA) Program:**

The Act amends extended benefits (EB) law to add a new provision, section 208, to the Federal-State Extended Unemployment Compensation Act of 1970. Section 208 provides authority to States to establish an SEA program for individuals receiving extended benefits. Current law limits SEA participation to individuals who are eligible to receive “regular compensation.” In addition, the Act adds new section 4001(j) of the Supplemental Appropriations Act of 2008 to make SEA programs available to recipients of benefits under the Emergency Unemployment Compensation (EUC) program, if a State chooses to create an SEA program for EUC claimants.

Individuals may receive up to 26 weeks of SEA payments based on EUC, EB, or combined EUC/EB eligibility. The Act permits an individual who is receiving SEA under an EB program to continue to receive EUC SEA benefits when they exhaust EB eligibility, up to the combined eligibility limit. The Act limits the percentage of EUC/EB participants that may participate in SEA to no more than 1 percent of the number of individuals receiving benefits in either program. Individuals may only be approved for participation in SEA if the agency “has a reasonable expectation that the individual will be entitled to at least 13 weeks” of EUC and/or EB benefits. Individuals may drop out of SEA at any time and receive the balance of EB or EUC to which they were initially determined eligible.

The Act also provides for grants to States to improve administration of existing SEA programs enacted prior to February 22, 2012. Grants may also be used for development, implementation, and administration of SEA programs established after February 22, 2012 for regular State benefits, EB, or EUC. The Act also authorizes the Secretary to award grants to States to promote SEA programs and enroll unemployed individuals in those programs. The amount of a grant shall be determined based on the percentage of unemployed individuals relative to the percentage of unemployed individuals in all States. Applications for grants must be submitted to the Secretary on or before December 31, 2013.

With regard to these provisions the Secretary is required to:

- Develop model language, and periodically review and revise the model language;
- Provide technical assistance and guidance in establishing, improving, and administering SEA programs;

- Establish reporting requirements for State SEA programs on, the total number of individuals who received unemployment compensation and were referred to an SEA program, participated in the SEA program, and received an allowance under the SEA program;
- Establish reporting requirements for State SEA programs on the total amount of allowances provided to SEA participants;
- Establish reporting requirements for State SEA programs on the total income for businesses established by participants and the total number of individuals employed in such businesses;
- Establish reporting requirements for State SEA programs on other information the Secretary deems appropriate; and
- Consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance.

The Act also requires the Secretary to utilize resources available throughout the Department and to coordinate with the Small Business Administration to ensure adequate funding is reserved and available to provide entrepreneurial training for SEA participants.

**Stakeholder Consultation Opportunities:**

As described above, the Secretary is required to consult with employers, labor organizations, State workforce agencies, and other program experts in developing the model legislative language, guidance, development of reporting requirements, and delivery of technical assistance for both the STC and SEA initiatives. In order to meet this requirement and to expeditiously develop guidance for States to implement these

programs, the Department invites employers, labor organizations, State workforce agencies, other relevant program experts, and other interested parties to participate in the listening sessions listed above designed to receive this input from key program stakeholders. There will be two listening sessions scheduled for each program. In addition, a Web chat feature will be available to enable online contributions from participants who are unable to provide verbal contributions during the listening sessions due to the available time and number of participants. The listening sessions will be 90 minutes long and will be recorded.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dale Ziegler, Deputy Administrator, Office of Unemployment Insurance, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-4524, Washington, DC 20210. Telephone: (202) 693-2942, (this is not a toll-free number).

Signed at Washington, D.C., this 13th day of March 2012.

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Jane Oates  
Assistant Secretary  
Employment and Training Administration

**Billing Code: 4510-FW-P**

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