



Compliance
Insights

What's Around the Corner? – Tax Insights from ADP



November 2012

Webinar Program



Housekeeping

- This is one of a number of complimentary webinars that ADP offers to Finance and HR professionals each year
- Today's webinar will last for 60 minutes, ending at 4:30 p.m. (ET)
- The last 10 minutes of today's program have been reserved for Q&A
- A PDF copy of today's slides for download
- CPE and/or RCH certificates will be emailed to those who qualify within 30 days of today's broadcast
- Please participate in our brief survey at the conclusion of today's webinar
- If you do not have audio or experience any audio difficulties, please dial into the webinar (877) 219-4288, Pin# 4374



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- A. CPE Credit Only
- B. RCH Credit Only
- C. Both CPE & RCH Credits
- D. No
- E. Not Applicable

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Over 600,000 clients
worldwide

Pays 1 out of 6 in the U.S.
private sector - 33M worldwide



Founded in 1949
Went public in 1961

45,000 Associates
In 60+ Countries

- Revenues of approximately \$10 Billion
- Market capitalization of >\$23 Billion

Electronically moving
over \$1 Trillion annually

1 of 4 AAA Rated U.S. Industrial Companies
(by Standard & Poor's & Moody's)

One of the world's leading providers of
technology-based SaaS solutions to employers

Presenters



Wendy Seyfert
Vice President of Agency Relations
ADP, Inc.



Charles Asensio
Vice President of Government Affairs
ADP, Inc.

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Webinar Program



Agenda

- **Tax System Background**
- **In a “Perfect World”**
- **The Current State of the States**
 - Bonds and Assessments
 - FUTA Credit Reduction
- **Tax Credits Preview: Post Election Legislative Stage**



UNEMPLOYMENT INSURANCE: TAX SYSTEM BACKGROUND

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About Unemployment Insurance Tax

Established with Social Security Act of 1935

Funded by employers

**Funded by employers *and* employees in some states
(*Alaska, New Jersey, Pennsylvania*)**



Goal of the System: Stabilize the Economy

“ The objective of unemployment insurance can be defined or described as an effort to secure the wage worker and his dependents, deprived of an opportunity to work and earn a living...to enable him to preserve during his period of unemployment, some standard of living on a level of health and decency...to give to the employed workman a sense of security that that would be done.”

Experience Rating In Unemployment Insurance: Some Current Issues 1989



UI Tax Considered “Experience Rated”



What is Experience Rating?

“ An increase in benefit payments made to former employees during the current year typically causes the employer to be subjected to higher tax payments in future years.”

Dr. Wayne Vroman, The Urban Institute

Determining Unemployment Insurance Rate

Employer's Account "Chargeable" After 4 Consecutive Quarters

Ending June 30 (in most states) and assigned experience

Before June 30, employers usually receive a standard new employee rate

Experience included from this period:

Taxable wages reported

UI taxes/contributions paid (includes
voluntary payments from states that allow)

Benefits charged



When Employers Don't Pay Quarterly UI Tax

Dependent on the Amount of Wages You Pay

Exempt employers

501(c)3

Confirm by state, but many consider the IRS guidelines

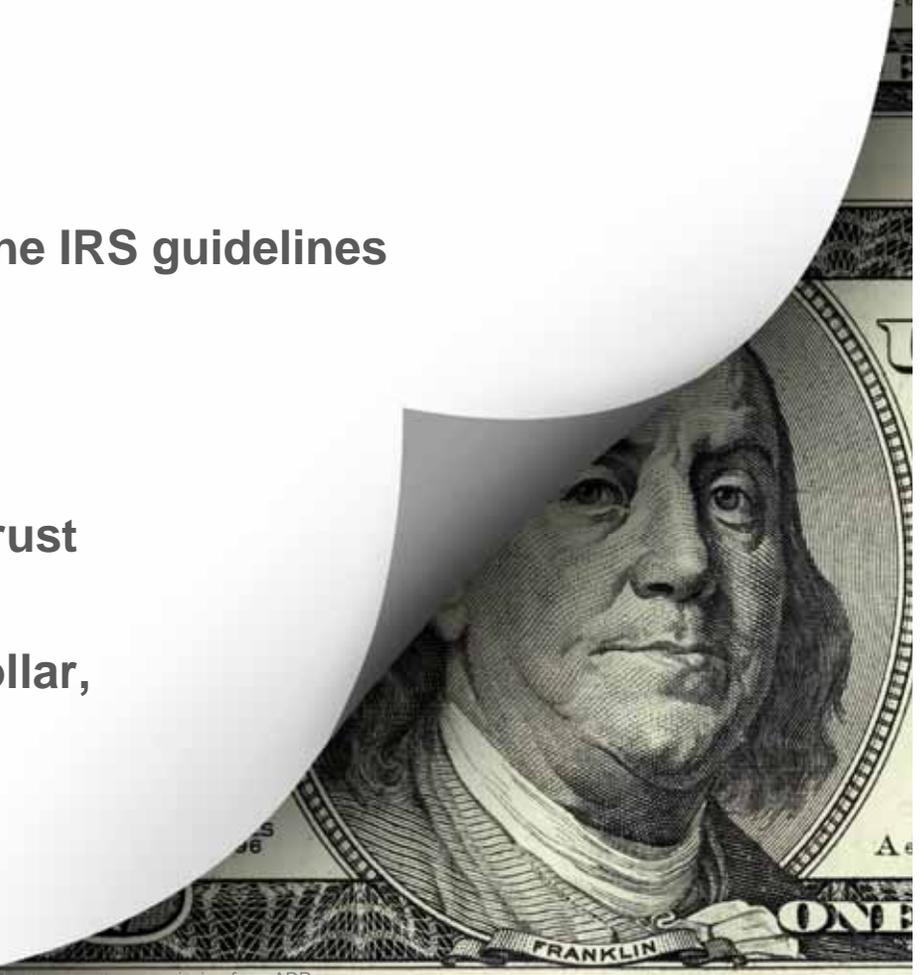
Reimbursable employers

501(c)3

May choose to reimburse the state's trust fund for benefit payments

Employer will be charged dollar-for-dollar, regardless of why employee left

Varies by state (“non-liable”)



State Chart

State	Liability Retroactive To January 1	Liability Wage Threshold	Liability Period Worked	Liability Household Employers	Liability Agricultural Employers	Liability Nonprofit Employers	Register Nonliable Employers
AL	Yes	Employer that has paid wages of \$1,500 or more in any calendar quarter during the current or preceding calendar year.	When the employer has had in employment one or more workers on some day in 20 or more different weeks, whether or not consecutive, during the current or preceding calendar year.	Domestic employers become subject when the employer pays domestic workers in a private household, college club, fraternity or sorority house a total of \$1,000 or more in cash wages in any calendar quarter during the current or preceding calendar year.	When the employer has had in employment 10 or more agricultural workers on the same day in 20 or more different weeks during the current or preceding calendar year or has paid a total of \$20,000 in cash wages to agricultural workers during any calendar quarter of the current or preceding calendar year.		No - but will register if out-of-state employer hires an Alabama employee and paid wages.
AK	No	Every employing unit, including any person, firm, corporation, or other type of organization that for some portion of a day within the calendar year has employed one or more persons, is required by law and regulation to file.		wages paid are more than \$1,000 per quarter in the current or the preceding year.	Paid more than \$20,000 in wages in current or preceding calendar year or employed more than 10 people in at least 20 weeks.	NONPROFIT ORGANIZATION that are exempt under IRC 501(a) and 501(c)(3). You may be able to choose whether you wish to be a regular taxable employer paying at an annual rate, or a reimbursable employer that pays back or reimburses the UI Trust Fund for the actual dollar amount of benefits drawn by former employees.	NO
AZ	Yes	Pay wages of at least \$1,500 during a calendar quarter.	Employ at least one worker for some part of a day in each of 20 different weeks in a calendar year.	Pay domestic/household workers at least \$1,000 cash wages in a calendar quarter.	Pay agricultural workers at least \$20,000 cash wages in a calendar quarter, or employ at least 10 agricultural workers for some part of a day in each of 20 different weeks in a calendar year	Are a nonprofit organization exempt under section 501(c)(3) of the Internal Revenue Code, and employ four or more individuals for some part of a day in each of 20 different weeks in a calendar year	No-sets up Temp ID and sends letter asking employer to contact them when payrolls start.
AR	Yes	Employ one (1) or more workers for some portion of ten (10) or more days during a calendar year.	Employ one (1) or more workers for some portion of ten (10) or more days during a calendar year.	Pay \$1,000 or more cash wages in a calendar quarter to individuals employed in domestic service,	Pay \$20,000 or more cash wages in any calendar quarter to individuals employed in agricultural labor, or employ at least ten (10) workers for some part of a day in each of twenty (20) different weeks in a calendar year.		NO

When Employers Don't Pay Quarterly UI Tax

Additional Reasons Include:

Leased employees

Common paymaster

Children who work in a family business

Certain wages



Polling Question #1

When was the Social Security Act passed?

- A. 1929
- B. 1935
- C. 1951
- D. 1952

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Polling Question #2

Who generally pays unemployment insurance (UI) tax?

- A. Employees
- B. Employers
- C. Both

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UNEMPLOYMENT INSURANCE: IN A “PERFECT WORLD”

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How the UI Tax Amount is Determined



In a “Perfect World”

Employers

Employers pay taxes to state governments

Government puts money in trust funds

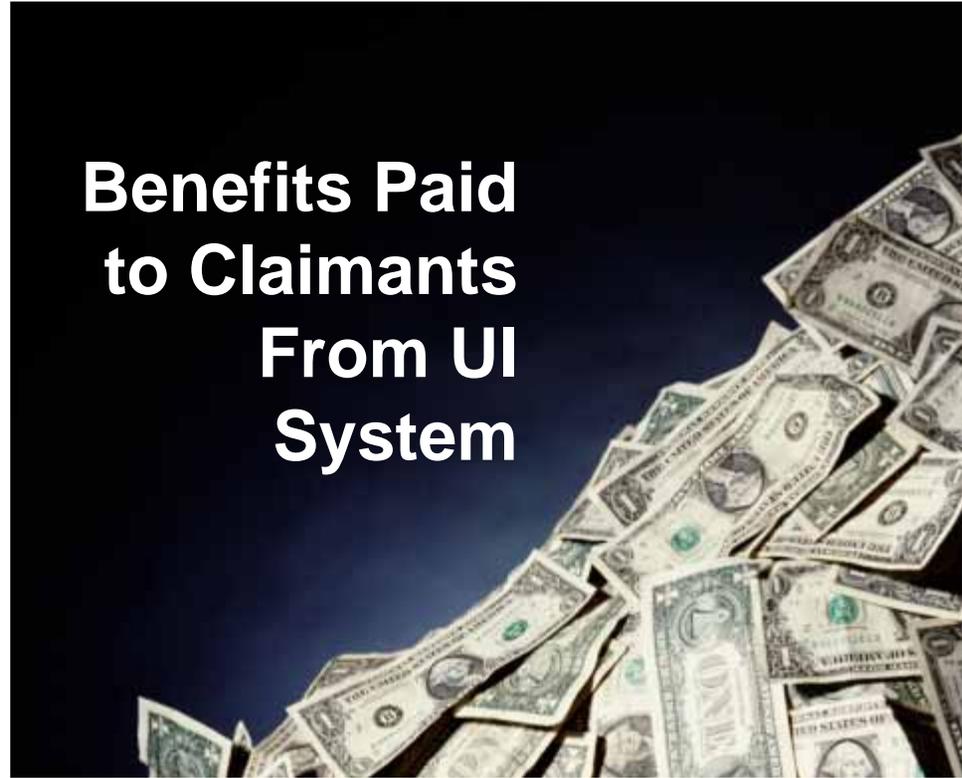
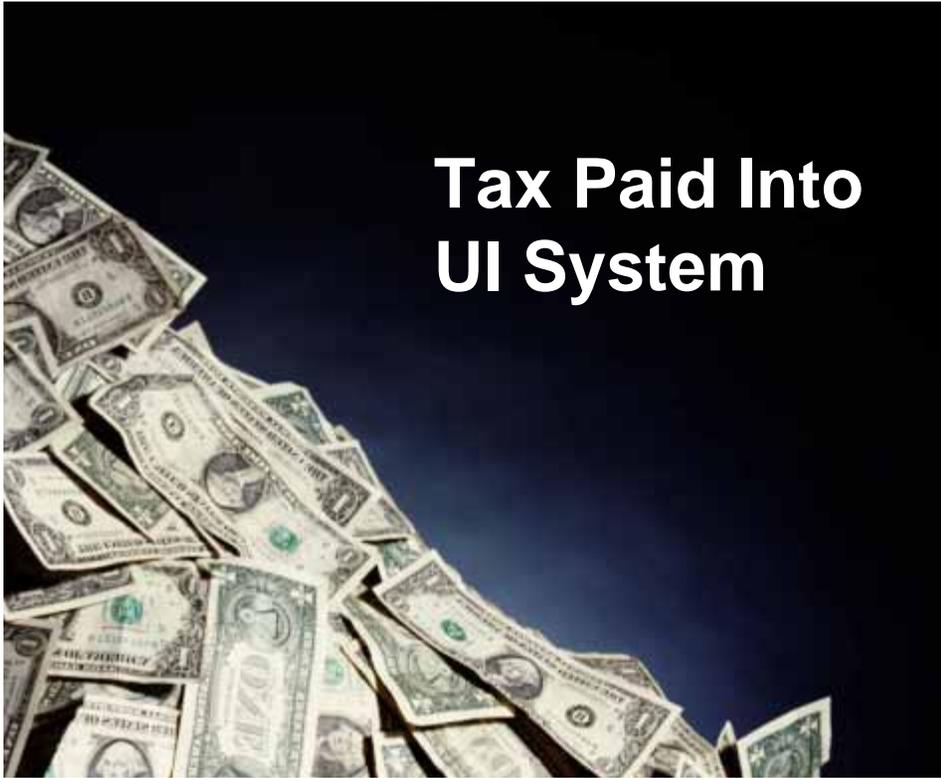
Money from trust funds paid to unemployed workers

Mutualized Account

Separate account maintained for the purpose of recovering unemployment costs paid, but not chargeable to the employer

When account reaches negative balance, the money is restored through a tax levied on all employers





UI Tax “In a Perfect World”





UNEMPLOYMENT INSURANCE: THE CURRENT STATE OF THE STATES

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**Tax Paid Into
UI System**

**Benefits Paid
to Claimants
From UI
System**

State of the States Now



Title XII: Social Security Act (SSA)

- **Provides for loans to states from the Federal Unemployment Account (FUA)**
- **Establishes eligibility criteria**
- **Details how and when loans and interest are to be repaid**
- **Projected amount needed for a 3-month period**
- **Governor sends a letter to the Secretary of Labor**



Federal Unemployment Account (FUA)

- **State must use own trust fund account before taking advances from state's FUA**
- **State must use any Reed Act monies first**
- **Amount drawn from FUA cannot exceed approved amount**
- **Additional funds require supplemental request**



Cash Flow Loans

No Interest Assessed on Loans Received January – September if:

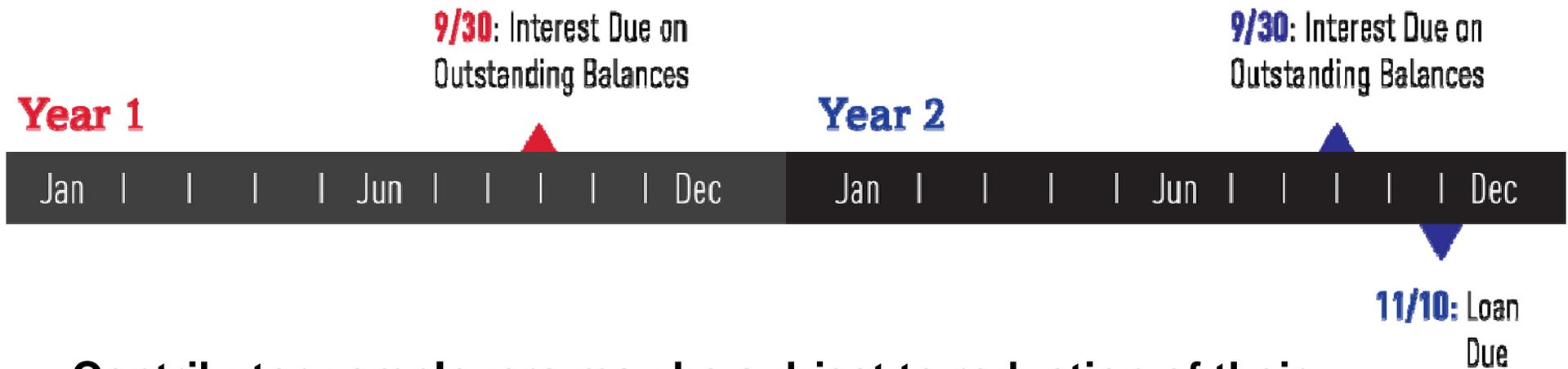
Loans are repaid by September 30

**No other loans are taken out between October 1 and December 31,
and the state meets funding goals specified in regulation:**

20 CFR 606.32 Final Rule published 75 Fed Reg. 57146 – September 17, 2010



Interest and Loan Due Dates



Contributory employers may be subject to reduction of their FUTA credit (5.4%)

Credit reductions are generally 0.3% *each year* the balance remains unpaid

FUTA receipts are credited against the loan balance

Interest on Loans

Accrues daily

Interest rate changes each year

Due and payable no later than September 30

Cannot be paid directly or indirectly from state's unemployment fund

Reed Act funds cannot be used to pay interest

There are strict rules about what source interest can be paid from versus what sources administrative costs can be paid from

Example

**A State Borrows \$10 Million on November 1, 2009 and
Remains Outstanding on October 1, 2010**

2009 Interest (61 Days) @ 4.6375% = \$77,503.75

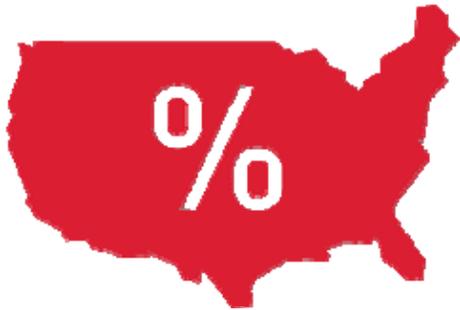
2010 Interest (273 Days) @ 4.3646% = \$326,447.94

Total Interest Due 9/30/10 = \$403,951.49*

**assumes the suspension of interest provision if the Recovery Act (ARRA) did not exist*

Title XII Interest Statistics

FY11



29 states paid over \$1.2B in interest

Amounts Range From:

\$211, 152 (Hawaii) \$303, 457, 803 (California)

FY12



28 states paid over \$1.1B in interest

Amounts Range From:

\$605, 041 (Alabama) \$308, 391, 382 (California)

How States Avoid Credit Reduction

- **Paying amount equal to the amount employers would pay through credit reductions**
- **Increasing solvency by an amount equal to amount of FUTA credits employer would lose**
- **Repaying any advances received during the one one-year period ending November 9 that year**
- **Not borrowing from November 1 of the tax year through January 31 the following year**



FUTA Credit Reduction – CAP

Beginning with the second year a state faces credit reduction, states may have the reduction capped IF these criteria are met:

No action taken by state to make situation worse, AND

State's average tax receipts exceed 5-year benefit payout, AND

Loan balance not greater than balance 3 years earlier

FUTA Credit Reduction – CAP

A state who qualifies for a cap will have their credit reduction set at the greater of 0.6% or the prior year's level

If the state qualifies for a cap, that year is not counted in the number of consecutive January 1 (it skips a year)

Polling Question #3

When is interest due on outstanding loans?

- A. 1 year from when the loan was taken
- B. During the second year the loan is outstanding
- C. November 10
- D. September 30

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Polling Question #4

When do we usually know which states will have a FUTA credit reduction?

- A. 1 year from when the loan was taken
- B. After November 10 of the second year
- C. September 30
- D. December 31

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The image shows a partial view of a circular seal on the left side of the slide. The seal features a central emblem with a scale of justice and a sword, surrounded by the text "STATE SYSTEM" in a circular border.

Bonds and Assessments

Some states have issued bonds to repay federal loans and avoid FUTA Credit Reduction status

Employers may be subject to separate assessments for bond repayment, where applicable

May be issued to:

Retire Title XII advances

Restore reserves

Make future benefit payments

States with Surcharges



0.5%

Reimbursable employers exempt

● **Arizona**



0.25 – 1.5%

Added to employers paying maximum rate

● **Missouri**



0.55%

Includes zero-rated employers

● **Illinois**



0.20%

All contributory employers

● **Pennsylvania**



0.2 – 2.0%

On negative-balance employers

● **Kansas**



0.6%

Non-profit and other exempt employers don't pay

● **South Carolina**



0.50%

Of sum of quarterly tax due

● **Minnesota**

States with Assessments



0.22% – amounts > \$5

Due 9/30/12

● **Colorado**



\$25.50/employee

On amounts greater than \$10
on all employees

● **Connecticut**



Calculation

On prior year taxable wages
for all contributory employers

● **Florida**



2.15%

For all contributory employers

● **New Jersey**



Calculation

On prior year taxable wages
for all contributory employers

● **New York**



0.218%

For contributory employers
& **0.135%** for reimbursable
employers with wages > \$25K
in wages the prior year

● **Wisconsin**

FUTA Credit Reduction By State

	2009	2010	2011	2012 *			2010	2011	2012 *
AR			0.003	0.006		MO		0.003	0.006
AZ			0.003	0.006		NV		0.003	0.006
CA			0.003	0.006		NJ		0.003	0.006
CO			0.003	-----		NY		0.003	0.006
CT			0.003	0.006		NC		0.003	0.006
DE			0.003	0.006		OH		0.003	0.006
FL			0.003	0.006		PA		0.003	-----
GA			0.003	0.006		RI		0.003	0.006
IL			0.003	-----		SC	0.003	-----	0.009
IN		0.003	0.006	0.009		VT			0.003
KY			0.003	0.006		VI		0.003	0.006
MI	0.003	0.006	0.009	-----		WI		0.003	0.006

* Anticipated due to loan status as of 10/5/12

What's An Employer to Do?

Consider making a voluntary contribution

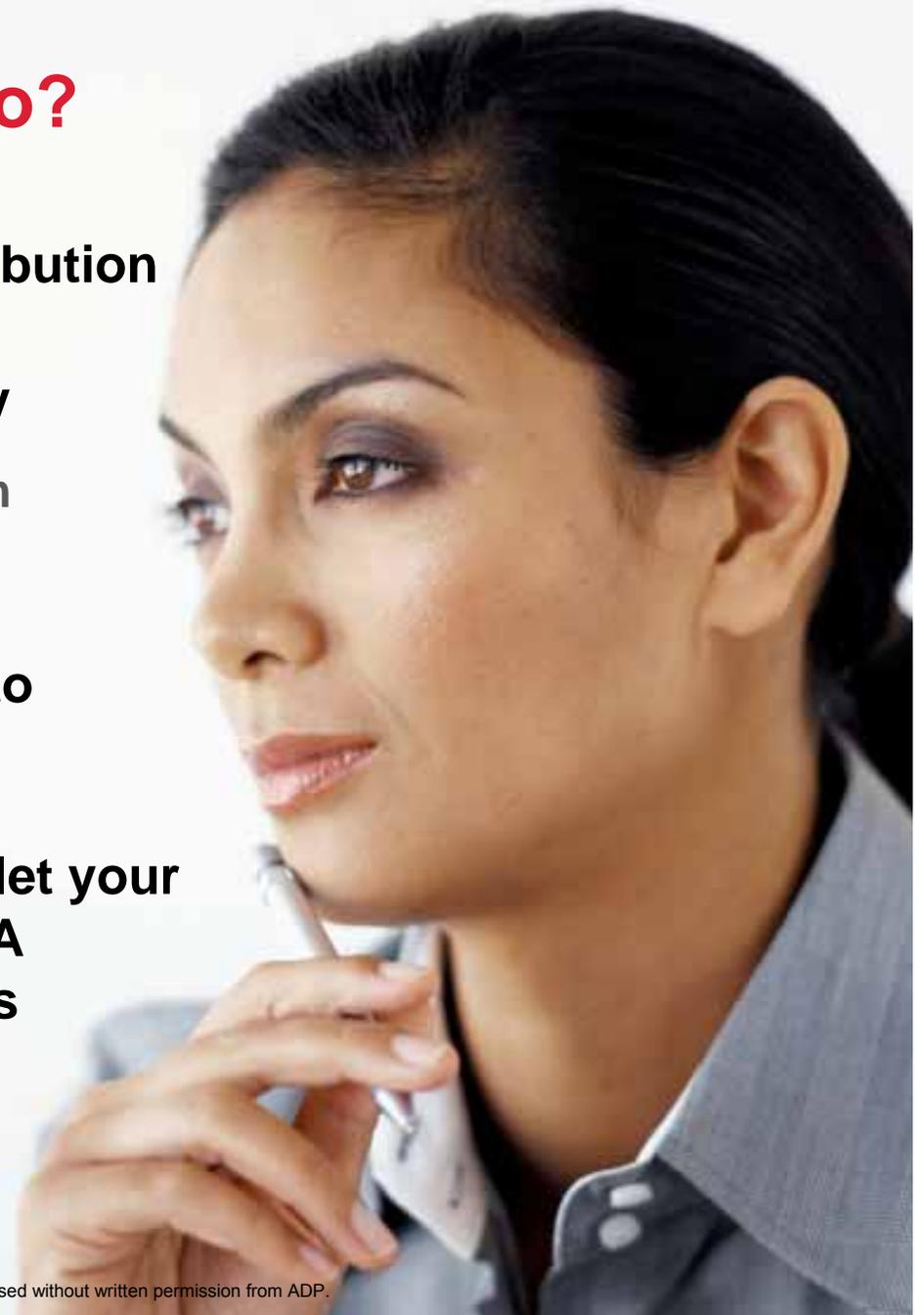
Don't contribute to state insolvency

Respond immediately to benefit claim notices *especially* if protesting

Audit your benefit charges posted to your account

Monitor states with FUA loans and let your finance area know of potential FUTA credit reductions and rate increases

[www.workforcesecurity.doleta.gov/
unemploy/budget.asp#+floans](http://www.workforcesecurity.doleta.gov/unemploy/budget.asp#+floans)





TAX CREDITS PREVIEW: POST ELECTION LEGISLATIVE STAGE

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Election Results

Set the Stage – “Lame Duck”

Winner is not a factor

Too much at stake

Legislative calendar is set

Avoidance of “Fiscal Cliff”



Legislative Agenda

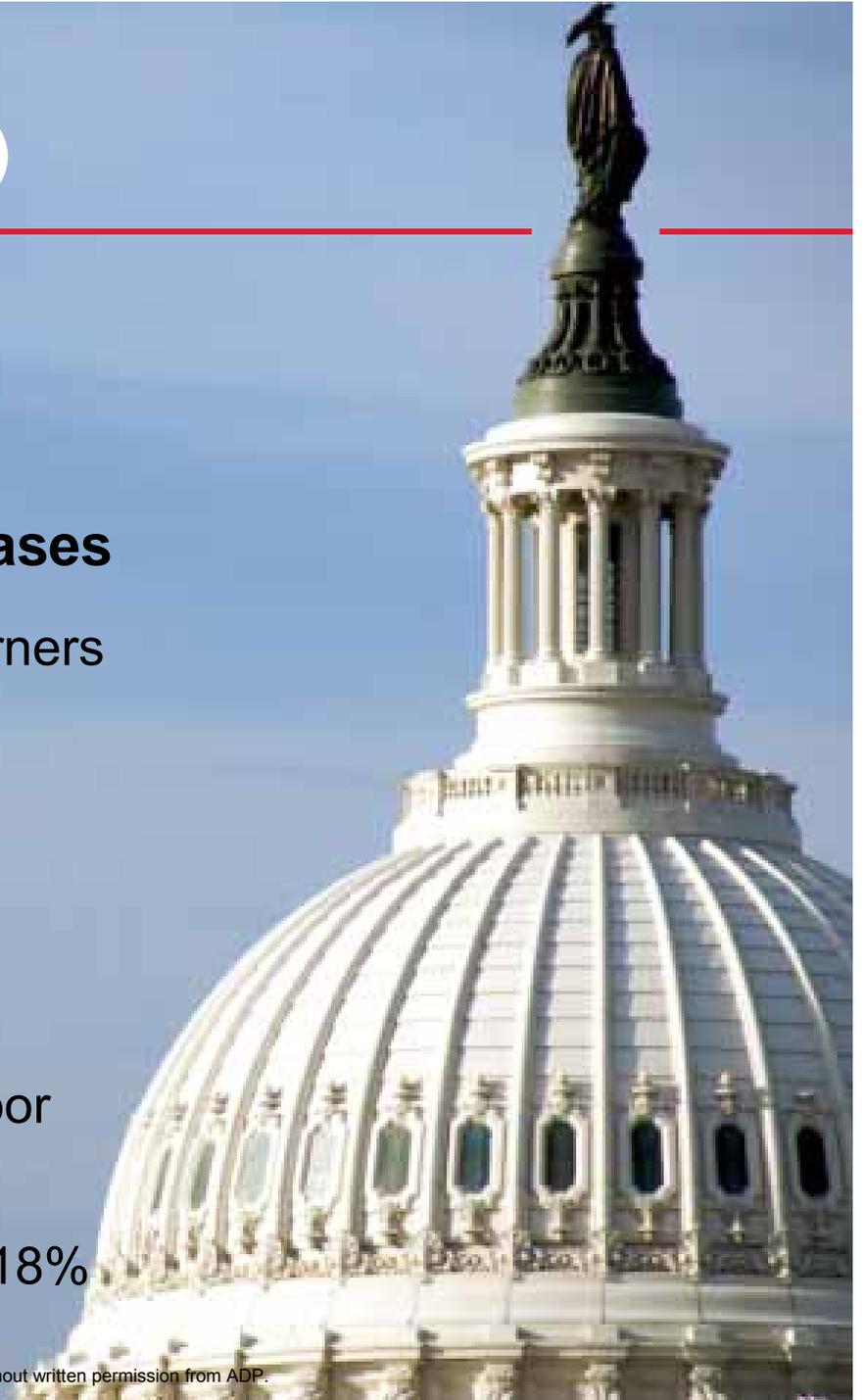
Legislation at Stake

- Expiration of 2001/2003 Bush Tax Cuts
- Return of Personal Exemption Phase-Out & Deduction Limitation
- Expiration of 2010 Estate and Gift Tax Rules
- Expiration of Bonus Depreciation
- Expiration of ATM “Patch”
- Expiration of Payroll Tax Cut



Legislative Agenda (cont'd)

- **Tax Extenders Expired 2011**
- **Tax Extenders Expired 2012**
- **Implementation of ACA Tax Increases**
 - Medicare tax expansion for higher earners
 - Medical device excise tax
 - Limit flexible spending arrangements
 - Eliminate deduction for expenses for Medicare Part D
 - Raises medical expense deduction floor from 7.5% to 10%
 - Raises capital gains tax from 15% to 18%



Legislative Agenda (cont'd)

■ Tax Extenders – TCS Priorities

- Work Opportunity Tax Credits
 - Veterans of War (VOW)
 - Analysis of Labor Economist, Peter Cappelli
- Empowerment Zones
 - Growth zones could replace EZ
- Indian (Native American) Employment Credit
 - Subject to re-evaluation for program effectiveness



Legislative Agenda (cont'd)

- New York Liberty Zone Credit
 - Popular among key legislators throughout the nation
- Washington DC Hiring Credit
(could be phased out)
- Inside the Beltline
 - Recent reports by DC insiders –
“Navigating through Fiscal Cliff”



FY13 Outlook

Tax Reform

Whoever is elected president, some type of reform is anticipated, or at least begin

Some reforms could roll over to 2014

Debt Ceiling

A must by March 2013

Crackdown on abuse – “zappers”

Jobs Initiative

Robust jobs program

Polling Question #5

Does your company provide an incentive (bonus) to encourage hiring managers to participate in WOTC?

- Yes
- No

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Q&A



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ADP Compliance Insights (Blog)



adpcomplianceinsights.com

Where tax, compliance, and financial professionals discuss and analyze LEGISLATIVE AND OTHER FACTORS which could affect their business

The screenshot displays the ADP Compliance & Financial Insights website. The header includes the ADP logo and the text 'Compliance & Financial Insights'. Below the header is a navigation bar with 'HOME', 'ABOUT', and 'AUTHORS'. The main content area features several article teasers:

- Determining Full-Time Employees Under the Affordable Care Act: Implications of Notice 2012-58**: Discusses the impact of the ACA on employer compliance, specifically regarding the determination of full-time employees.
- Get Ready To Comply With the Marketplace Fairness and Marketplace Equity Acts**: An on-demand webinar about remote commerce legislation and its impact on businesses.
- Find Your Way To a Lower Tax Rate In Louisiana**: A webinar aimed at helping companies in Louisiana take advantage of tax credits and incentives.
- New York Expands Permissible Deductions**: A news item about Governor Andrew Cuomo signing a bill to amend Section 192 of the New York Labor Law.

The right sidebar contains navigation links for 'Tax Management', 'HR Compliance', and 'Payment Solutions', along with a 'Get Insights via Email' sign-up form and a 'Tags' section listing various topics like 'Affordable Care Act', 'Sales & Use Tax', and 'Tax Credits'.

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