





## EY Payroll NewsFlash

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## New Jersey will likely not impose federal interest assessments on employers in 2022 despite a current outstanding federal loan balance

### Summary

- *Despite continuing to receive federal unemployment insurance (UI) loans this year, it is expected that New Jersey will use other funds to pay the interest owed, rather than charge employers a federal interest assessment.*
- *Legislators have introduced several bills that would further relieve employers of increased state unemployment insurance taxes that are the result of the high volume of claims paid pursuant to the COVID-19 emergency; however, New Jersey Governor Phil Murphy has requested these bills not be advanced.*
- *Legislation was already enacted to reduce the impact of COVID-19 UI benefits on employers through fiscal year 2024.*
- *To combat worker misclassification, the NJDOL recently mailed letters and questionnaires to certain workers classified by the company they contract with as independent contractors as part of the "routine auditing process" of the company. Failure by the worker to respond may result in a scheduled meeting with the NJDOL auditor.*

The US Department of Treasury showed that New Jersey repaid its federal unemployment insurance (UI) loan in full as of May 2022, but has since borrowed again. According to the New Jersey Office of Legislative Services fiscal year (FY) 2023 budget [analysis](#) for the New Jersey Department of Labor & Workforce Development (NJDOL), the federal UI loan balance was \$834.6 million as of April 22, 2022, before the full loan balance was repaid. As of July 1, 2022, the state's federal UI loan balance is \$10,908,550.07. (*US Treasury Department [website](#).*)

The FY 2023 budget analysis projects a negative state UI (SUI) trust fund opening balance of -\$109.1 million but a positive closing balance of \$117.5 million at the end of FY 2023. The budget analysis anticipates \$9.4 million and \$13.0 million in federal interest payments in FY 2022 and FY 2023, respectively, on the federal UI loan. It is expected that the Unemployment Compensation Auxiliary Fund, a special revenue fund that serves as the repository for all interest and penalties imposed upon employers for violations of UI regulations, will be used to pay the federal interest as of September 30, 2022 if sufficient funds are available, rather than imposing an interest assessment on employers. Another NJDOL fund, the Unemployment Compensation Interest Repayment Fund, may also be used to repay the interest due.

Under N.J.A.S. 43:21-14.3, the NJDOL is required in June of each year to determine the anticipated amount of federal interest that will be due on an outstanding federal UI loan balance by September 30 that year. If there are insufficient funds in the Unemployment Compensation Auxiliary Fund to pay the entire amount due, the NJDOL must issue federal interest assessments to employers, determined by multiplying the amount of an employer's calendar year SUI contributions by a ratio calculated by the NJDOL under N.J.A.S. 43:21-14.3(c).

The minimum assessment amount is \$5.00. These interest assessment notices are usually issued in July of the year the federal interest is due (i.e., July 2022 to pay federal interest due on September 30, 2022). Payment is due within 30 days of the assessment's mailing date.

Governor Phil Murphy [signed](#) the FY 2023 budget into law on June 30, 2022.

For more on the FY 2023 budget, see the state legislature's budget [website](#) and the New Jersey Department of Treasury, Office of Management and Budget's [website](#).

### **Pending state legislation that would have alleviated increases to employer SUI taxes reportedly dead**

State legislation proposed in 2022 (AB [2152](#)/SB [733](#)) would repay any remaining federal UI loan balance with federal American Rescue Plan Act (ARPA) funds. Current law requires that SUI tax rates for employers: for FY 2022, was set at Rate Schedule C; for FY 2023 SUI tax rates are set at Rate Schedule D; and for FY 2024 SUI tax rates are set at Rate Schedule E. The legislation, if enacted, would require that for FY 2024 Rate Schedule D would be in effect, the same rate schedule currently set to be in effect for FY 2023.

Another set of pending legislation (AB [2440](#)/SB [1832](#)) would allocate \$2.5 billion to the state's UI trust fund to repay any remaining federal UI loan balance with federal American Rescue Plan Act (ARPA) funds. The legislation, if enacted, would also require that for FY 2022-FY 2024 Rate Schedule B would be in effect, the same rate schedule in effect for FY 2021. This would result in revised tax rates for FY 2022, originally issued in August 2021.

AB [3683](#)/SB [2378](#) would provide state corporation business tax and gross income tax credits to small businesses to help offset the scheduled SUI tax rate increases in FY 2023-2024. The tax credits would be available for tax years and privilege periods beginning in calendar years 2023-2024. The tax credits would be nonrefundable but could be carried forward for seven years.

According to the New Jersey Business and Industry Association (NJBIA), although some of these bills have been favorably reported out of legislative committees, the legislation will not go to the Assembly or Senate floors per

Governor Phil Murphy's request and the bills are essentially dead. (*Articles*, *NJBIA website*, [6-29-0222](#); [7-1-2022](#).)

### **Law reduces impact of COVID-19 UI benefits on SUI tax rates over next three fiscal years**

As we reported, 2021 [AB 4853](#) reduces the effect of regular state COVID-19 UI benefits on New Jersey employer SUI tax rates for FY 2022 through 2024. (New Jersey's fiscal year for SUI tax rating purposes is July 1 through June 30.) (*EY Tax Alerts* [2021-0395](#), 2-19-2021; [2021-1582](#), 8-30-2021; and [2021-1909](#), 10-20-2021.)

AB 4853 prevents a move to an even higher SUI rate [schedule](#) over three fiscal years, something that had been anticipated due to the reduction in the state's UI trust fund from COVID-19 UI benefit payouts. It is estimated that the highest rate schedule, Schedule E+, would have been in effect for FY 2022, with rates ranging from 1.3% to 7.7%.

Following are the maximum SUI tax rate ranges under AB 4853:

- For FY 2022 (July 1, 2021 to June 30, 2022) the assignment of SUI tax rates moved from the FY 2021 Rate Schedule B, with rates ranging from 0.4% to 5.4%, to Rate Schedule C, with rates ranging from 0.5% to 5.8%.
- For FY 2023 (July 1, 2022 to June 30, 2023) the assignment of SUI tax rates will move from Rate Schedule C to Rate Schedule D, with rates ranging from 0.6% to 6.4%.
- For FY 2024 (July 1, 2023 to June 30, 2024) the assignment of SUI tax rates will move from Rate Schedule D to Rate Schedule E, with rates ranging from 1.2% to 7.0%.

The law provides that if calculation of the actual fund reserve ratio would result in the selection of a rate schedule with lower contribution rates than those above, the lower rate schedule will apply.

AB 4853 also codified that COVID-19 UI benefits were not to be charged to individual employer accounts for experience-rating purposes for the period of the COVID-19 public health emergency and state of emergency declared by Governor Murphy on March 9, 2020, and through any subsequent extensions of the state of emergency. (*Executive Order* [244](#); *governor's news* [release](#), 6-4-2021.)

As of July 5, 2022, the NJDOL [website](#) has not yet confirmed the SUI rate schedule in effect for FY 2023 or show when the FY 2023 tax rate notices will be issued.

### **State takes steps to combat worker misclassification**

To combat worker misclassification, the NJDOL recently mailed letters and questionnaires to certain workers classified by the company they contract with as independent contractors as part of the "routine auditing process" of the company. Failure by the worker to respond may result in a scheduled meeting with the NJDOL auditor. For more information, go [here](#).

New Jersey and Arkansas were chosen by the US Department of Labor to participate in a pilot program for modernization and improvement of the federal UI system. According to the [NJDOL](#), "the goal of the Claimant Experience Pilot is to design an application system that provides equitable and timely access to unemployment

benefits for eligible workers, while rooting out identity theft and other fraud issues that have bogged down state unemployment systems throughout the COVID-19 pandemic.”

State legislation proposed in 2022 (SB [692](#)) would allocate \$200 million in available federal and state stimulus funds to modernize and improve the UI benefit claims program following the unprecedented spike in UI benefit claims filings caused by the COVID-19 pandemic.

**Contact us for more information**

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