

California Payroll Conference

September 11 and 12, 2014

State & Federal Employment Tax 2014 Overview

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Meet Your Presenter



Ross E. Henderson

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President, Association of Unemployment Tax Organizations (“AUTO”)

Advisory Board Member, HR.com (Core HR IHR)

COO, [Emptech](#) (f/k/a Employment Technology Solutions, “ETS”)

Cloud-based Technology Supported by Skilled HR & Payroll Consultants

Talent Management

- Applicant Tracking System
- Efficient Onboarding & HR Tools

Electronic I-9

- Integrated E-Verify
- Easy-to-use High Compliance Platform

Income Verification

- Verification of Income & Employment
- Employee satisfaction with 24/7 service

UI Claims Management

- Claims administration & appeals representation
- UI Cost Control

Credits & Refunds

- Hiring Based Credits / WOTC
- Retrospective Research and \$\$\$ Refund Recovery

Tax Consulting

- Mergers & Acquisition Employment Tax
- Compliance & Tax Savings

Compliance, Efficiency, & Bottom Line Benefit

Agenda

- I. Macro Economic Overview
- II. Federal: FICA & FUTA
- III. State UI
- IV. State Spotlights: CA, NY, NJ, CT
- V. UI Legislation & Enforcement
- VI. Tax Optimization Tips

3 Raffle Gifts:

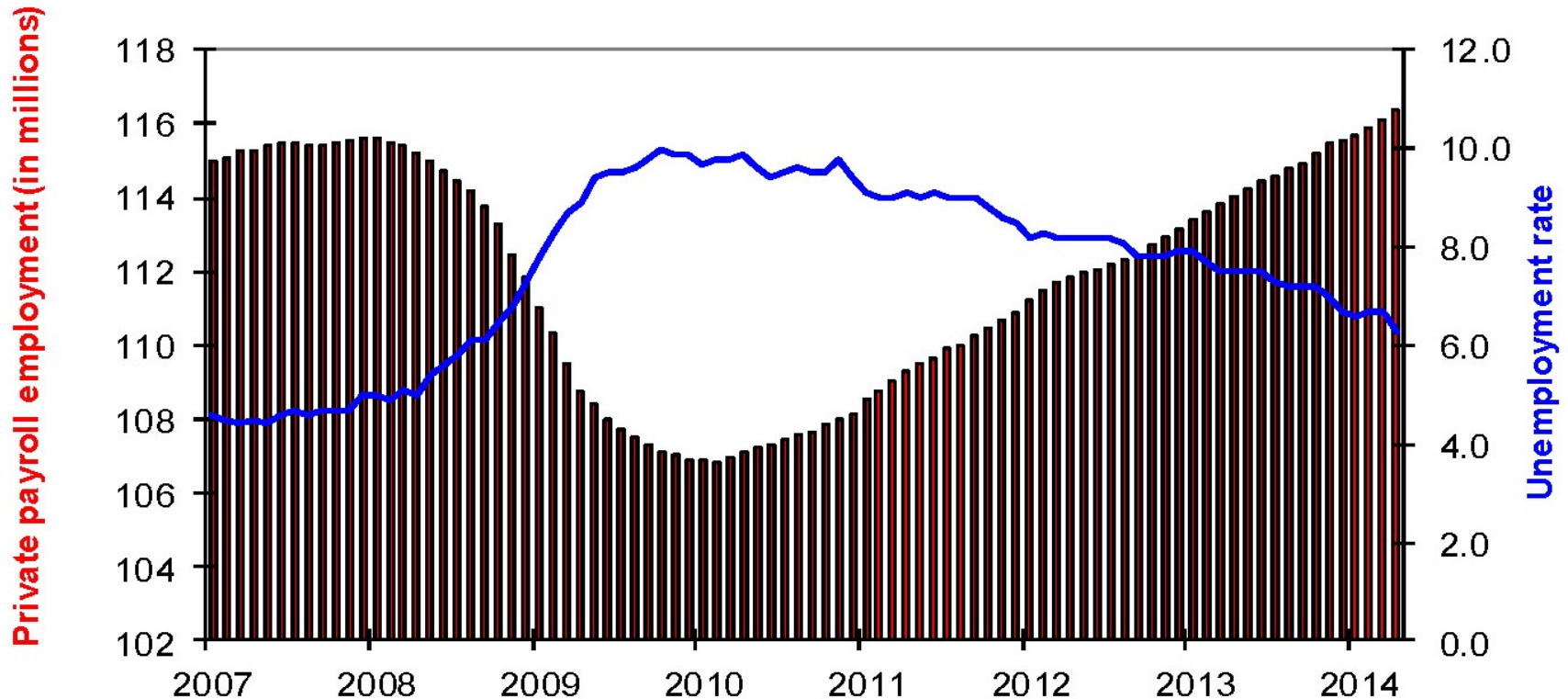


What is your area of expertise?



Job Growth & Unemployment

Unemployment and Job Growth since Jan 2007

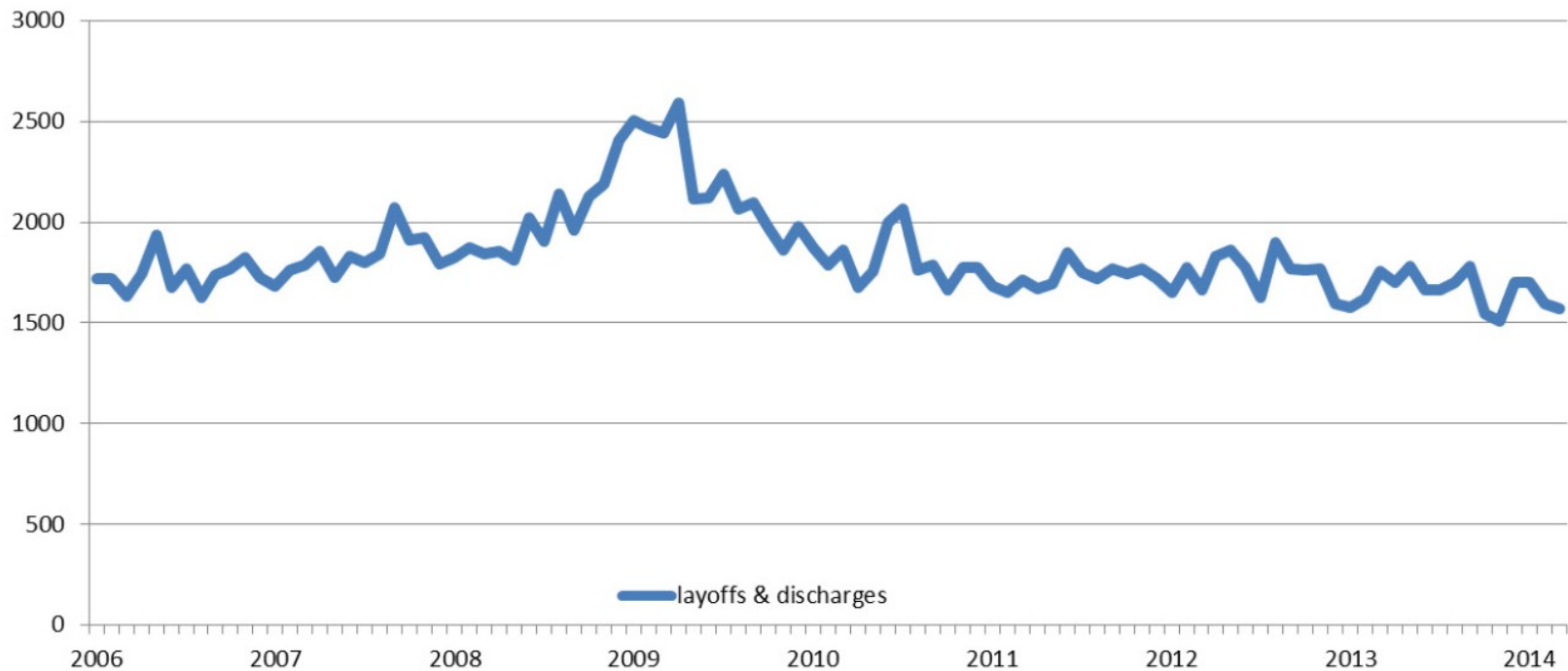


Source: Bureau of Labor Statistics

National Unemployment Map



JOLTS Layoffs and Discharges Seasonally Adjusted, in Thousands



January 2006 through March 2014

Source: Job Openings Layoffs and Turnover Survey & Mass Layoff Statistics

FICA Overview



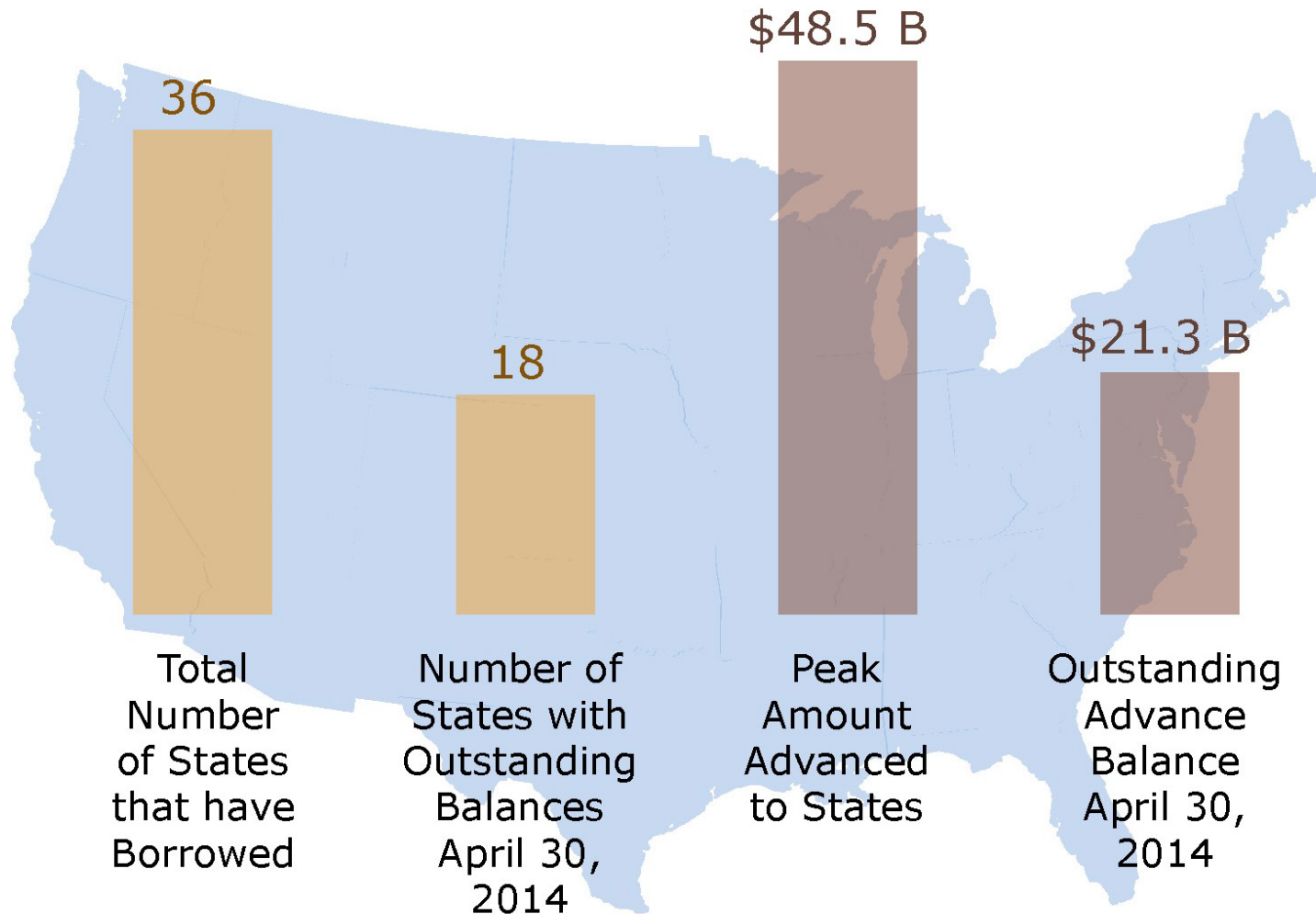
- Federal Insurance Contributions Act (FICA) – U.S.C. Title 26 Chap 21
- Entire FICA 15.3% (SS tax 12.4% + Medicare 2.9%*) equally shared between ER and EE.
 - * 0.9% Medicare surcharge for EEs with wages in excess of \$200K individual / \$250K married (no ER matching contribution)
- Supreme Court rules FICA tax due on severance pay
- Social Security Wage Base
 - 2014 = \$117,000 (with max \$7,254 SS tax)
 - 2013 = \$113,700; 2012 = \$110,100

FUTA Overview



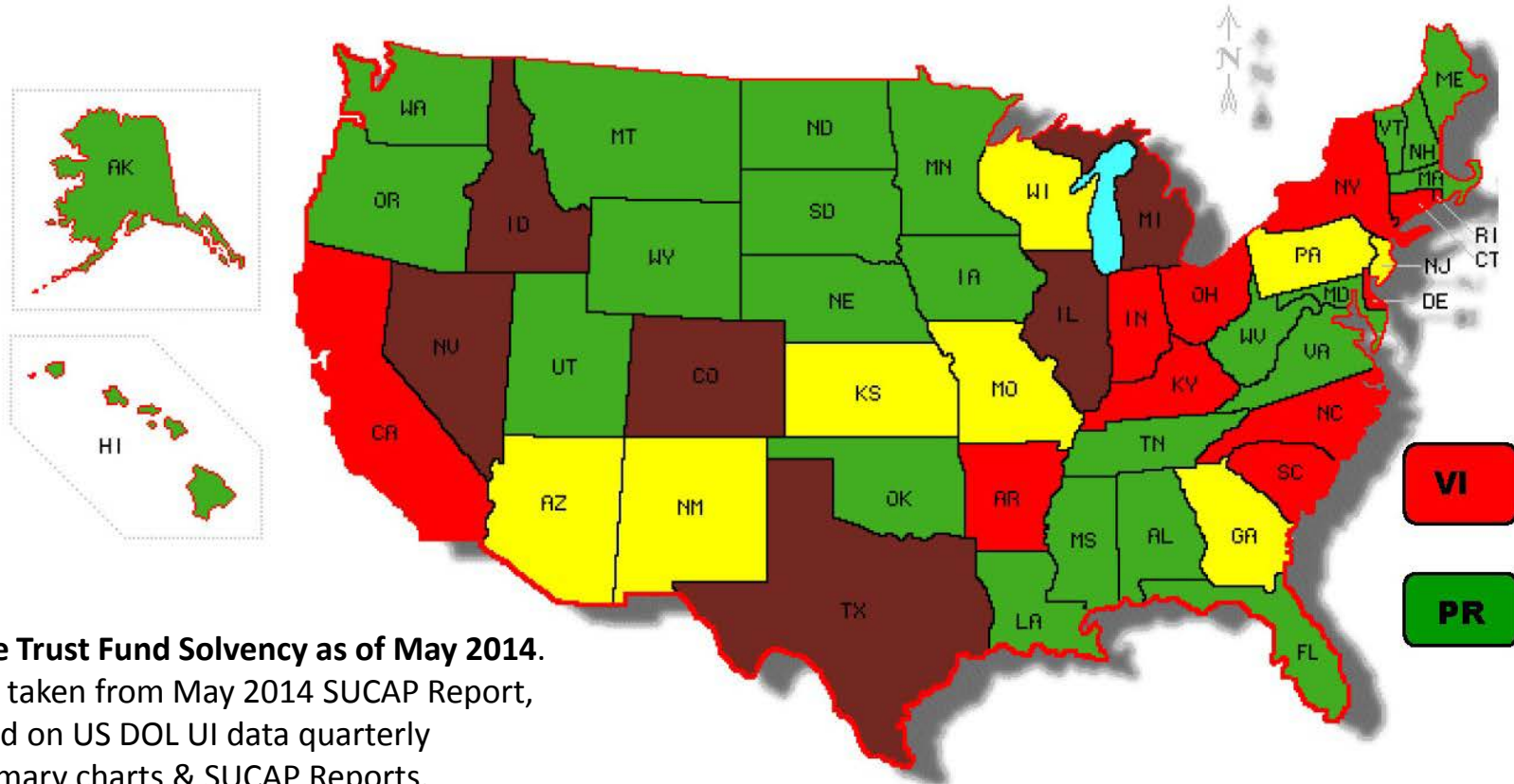
- Federal Unemployment Tax (FUTA) Designed to help fund UI Administration – U.S.C. Title 26 Chap 32
- Obama budget proposes raising base to \$15,000
- 6% rate with fixed \$7,000 taxable wage base; effective rate after applying 5.4% credit is 0.6%
- Due to state needs to borrow Title XII loans from Fed to fund their State UI programs, many states triggered FUTA Credit Reductions – involuntary repayment
- States with Title XII loans for 5 years trigger additional reduction via Benefit Cost Reduction (BCR) factor

Unemployment Trust Fund Balance



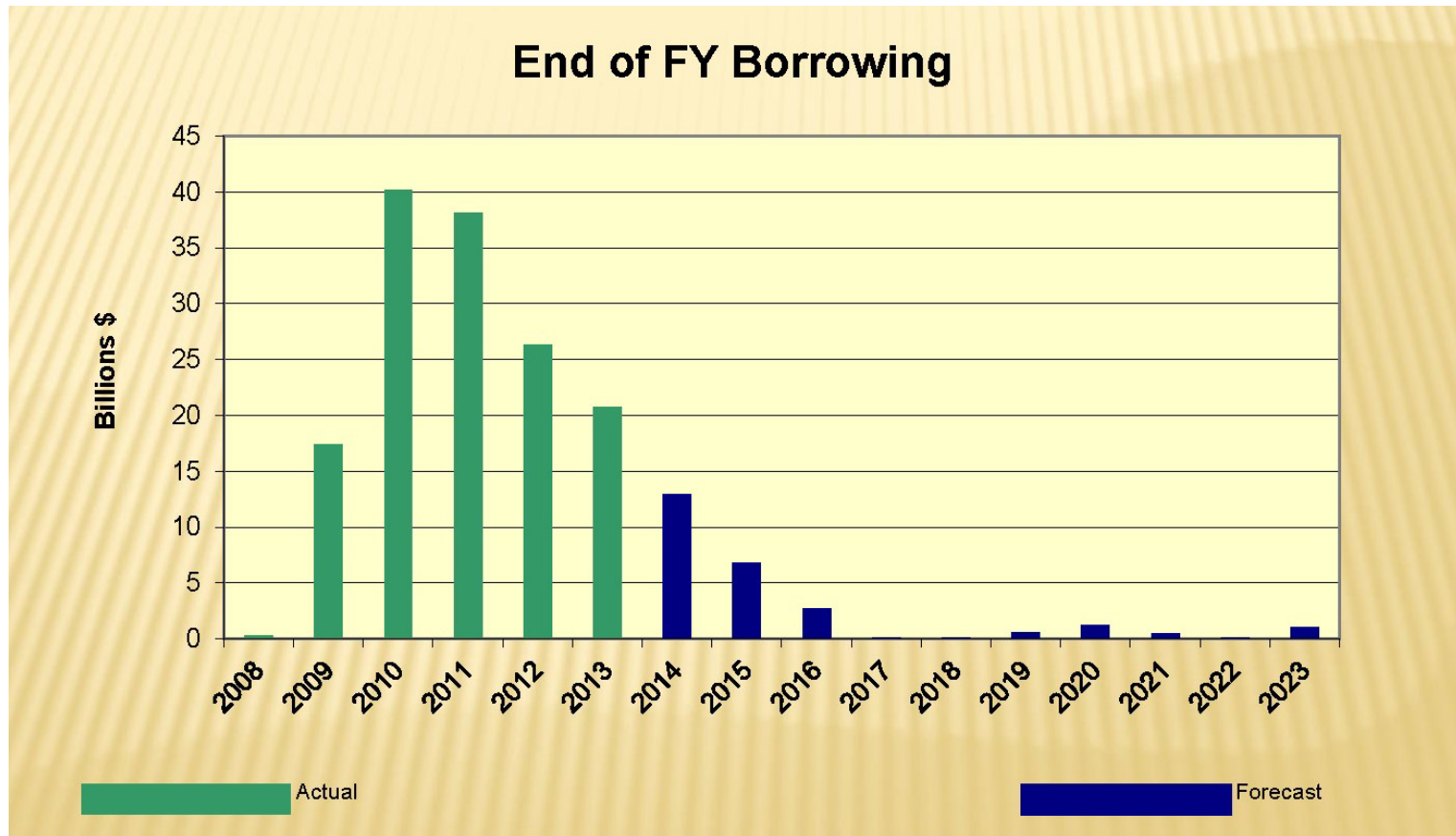
Source: Gay Gilbert, Administrator of Unemployment Insurance for USDOL/ETA
(Presentation 6/18/14 at National UI Issues Conference); DOL data

State by State Trust Fund



UI Trust Fund Balance Projection

Total Borrowing Over Time & Projected Borrowing Through 2023



Source: Gay Gilbert, Administrator of Unemployment Insurance for USDOL/ETA
(Presentation 6/18/14 at National UI Issues Conference); DOL data

FUTA Credit Reduction & “BCR”



Potential 2014 Federal Unemployment Tax Act (FUTA) Credit Reductions

These states had Title XII advance balances on January 1, 2014 and are potentially subject to a reduction in FUTA credit on their RS Form 940 for 2014 if the loan is not repaid by November 10, 2014:

State	2014 Potential Credit Reduction	2014 Estimated 2.7 add-on ⁽³⁾	2014 Estimated BCR add-on ⁽³⁾	2014 Estimated Total Credit Reduction
Arkansas	1.2% ⁽²⁾	0.0%	0.5%	1.7%
California	1.2% ⁽²⁾	0.0%	1.5%	2.7%
Connecticut	1.2% ⁽²⁾	0.0%	0.5%	1.7%
Delaware	0.9% ⁽¹⁾	0.0%	0.0%	0.9%
Georgia	1.2% ⁽²⁾	0.0%	0.6%	1.8%
Indiana	1.5% ⁽²⁾	0.0%	1.2%	2.7%
Kentucky	1.2% ⁽²⁾	0.0%	1.0%	2.2%
Missouri	1.2% ⁽²⁾	0.0%	0.4%	1.6%
New Jersey	1.2% ⁽²⁾	0.0%	0.0%	1.2%
New York	1.2% ⁽²⁾	0.0%	0.7%	1.9%
North Carolina	1.2% ⁽²⁾	0.0%	0.5%	1.7%
Ohio	1.2% ⁽²⁾	0.0%	1.4%	2.6%
Rhode Island	1.2% ⁽²⁾	0.0%	1.0%	2.2%
South Carolina	1.5% ⁽²⁾	0.0%	0.5%	2.0%
Virgin Islands	1.2% ⁽²⁾	0.0%	1.6%	2.8%
Wisconsin	1.2% ⁽²⁾	0.0%	0.1%	1.3%

(1) This state is also potentially subject to the 2.7 additional credit reduction formula.

This add-on is applicable in states following their third or fourth consecutive January 1 with an outstanding Federal advance. A description is found in FUTA section 3302 (c)(2)(B)

(2) This state is also potentially subject to the Benefit Cost Rate (BCR) additional credit reduction formula. This add-on is applicable in states following their fifth consecutive January 1 with an outstanding Federal advance. A description is found in FUTA section 3302 (c)(2)(C)

(3) The third and fourth quarters of 2013 wages are based on extrapolated values

Source: Gay Gilbert, Administrator of Unemployment Insurance for USDOL/ETA
(Presentation 6/18/14 at National UI Issues Conference); DOL data

The Golden State (CA): UI Overview

- Unemployment Rate (May 2014): 7.6%
- Trust Fund Loan (July 2014): \$7,593,625,902
- '14 Taxable Wage Base: \$7,000
- '14 Tax Rates 1.5% min – 6.2% max
- '14 Projected Final FUTA Tax Rate: 2.7%
 - 1.2% Basic FCR + 1.5% BCR add on
- '14 Min/Max Weekly Benefit \$40-450



The Empire State (NY): UI Overview



- Unemployment Rate (May 2014): 6.7%
- Trust Fund Loan (June 27 2014): \$1,592,680,819
- '14 Taxable Wage Base: \$10,300
- '14 Tax Rates 1.5% min – 6.2% max
- '14 Projected Final FUTA Tax Rate: 2.5%
 - 1.2 basic FCR + 0.7 BCR add-on
- '14 Min/Max Weekly Benefit \$40 - \$450



The Garden State (NJ): UI Overview

- Unemployment Rate (May 2014): 6.8%
- Trust Fund Loan (July 2014): 0
- '14 Taxable Wage Base: \$31,500
- '14 Tax Rates 1.2% min – 7.0% max
- '14 Projected Final FUTA Tax Rate: 1.8%
 - 1.2% basic FCR
- '14 Min/Max Weekly Benefit \$85-584



The Constitution State (CT): UI Overview



- Unemployment Rate (May 2014): 6.9%
- Trust Fund Loan (July 2014): \$433,569,136
- '14 Taxable Wage Base: \$15,000
- '14 Tax Rates 1.9% min – 6.8% max
- '14 Projected Final FUTA Tax rate: 2.3%
 - 1.2% Basic FCR + 0.5% BCR add-on
- '14 Min/Max Weekly Benefit \$15-594



Key Federal UI Legislation

- 2004 SUTA Dumping Act
- 2011 TAAE UI Integrity Act (Sec. 252)
- 2012 ATRA
 - EE SS tax rate return to normal



2004 SUTA Dumping Prevention Act



- SUTA Dumping (a.k.a. “unemployment tax avoidance”) occurs by shifting EEs to a less-taxed entity to avoid paying a higher UI tax rate
- Migration of EEs between legal entities (M&A, consolidation, etc.) may trigger time-sensitive mandatory compliance reporting – **misunderstood & often missed!**
- Penalties for missing or incorrect reporting can include max UI ratings; civil &/or criminal penalties
 - **Social Security # Detection Software for enforcement**
- Read [Employer’s M&A “To Do” List](#)

2011 Federal Act – UI Integrity



- Follow on to 2009 Executive Order to reduce improper UI payments
- Under UI Integrity rules, states must not relieve employers of charges when they fail to respond **timely** or **adequately** to UI claims related agency requests
 - **Pattern of Failure as little as two instances.**
- Employers cannot collude with employee to misuse unemployment claim system
- Each state has unique rules; method of enforcement being formulated

“Pattern of Failure” Financial Impact Example



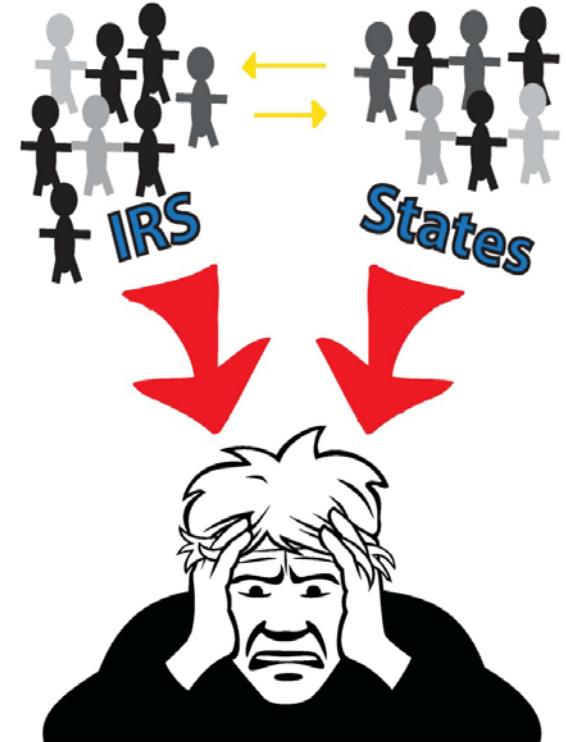
Case Study:

- ER With 100 Separations/Yr; “Pattern of Failure” classification
- Benefit\$ paid to claimant prior to successful Appeal by ER.

FACTORS	FIGURES
Weekly benefit amount	Assume \$300
Time to appeal	8 weeks
# of claims lost on initial determination & won by ER on Appeal	10 (out of 100 total separations)
Charge to ER UI account	\$24,000 (\$2,400 x 10 claims) now NON-RECOVERABLE due to “Pattern of Failure.”
Additional Exposure / Negative Impact	<ul style="list-style-type: none">• May raise AUDIT RISK for other UI areas?• May elevate ER experience rating

Audit Alert: Inter-Agency Info Sharing

- Questionable Employment Tax Practices “QETP” Initiative
 - 37 States & IRS
 - 12,000+ business examined thru ‘12
- Fed & state info sharing, data mining & cross-agency task forces
- Significant focus on worker classification
- Significant incentives to states to aggressively audit



UI Tax Optimization Focus



- UI Cost Control
- UI Retrospective Review

UI Benefit Charges: Material Expense



UC-280 (Rev. 3/11/02)

1. DATE MAILED 06/19/2014	
3. CLIENT'S SOCIAL SECURITY NUMBER [REDACTED]	
4. JOB CENTER 05-0	5. WEEK ENDING DATE 06/14/2014

NOTICE OF POTENTIAL LIABILITY

MERIT RATING UNIT
CONNECTICUT DEPARTMENT OF LABOR
WETHERSFIELD, CT 06109-1114
TEL: (860) 263-6705 FAX: (860)-263-6723
www.ctdol.state.ct.us

2. PROTEST PERIOD EXPIRE:

07/10/2014

7. EMPLOYER'S NAME AND ADDRESS

[REDACTED]
[REDACTED]
% EMPLOYMENT TAX SERVICING CORP
246 GOOSE LN STE 102
GUILFORD CT 06437-2186

6. CLIENT'S NAME AND ADDRESS

[REDACTED]
[REDACTED]
[REDACTED]

8. EMPLOYER'S REGISTRATION NO.

00-025-15

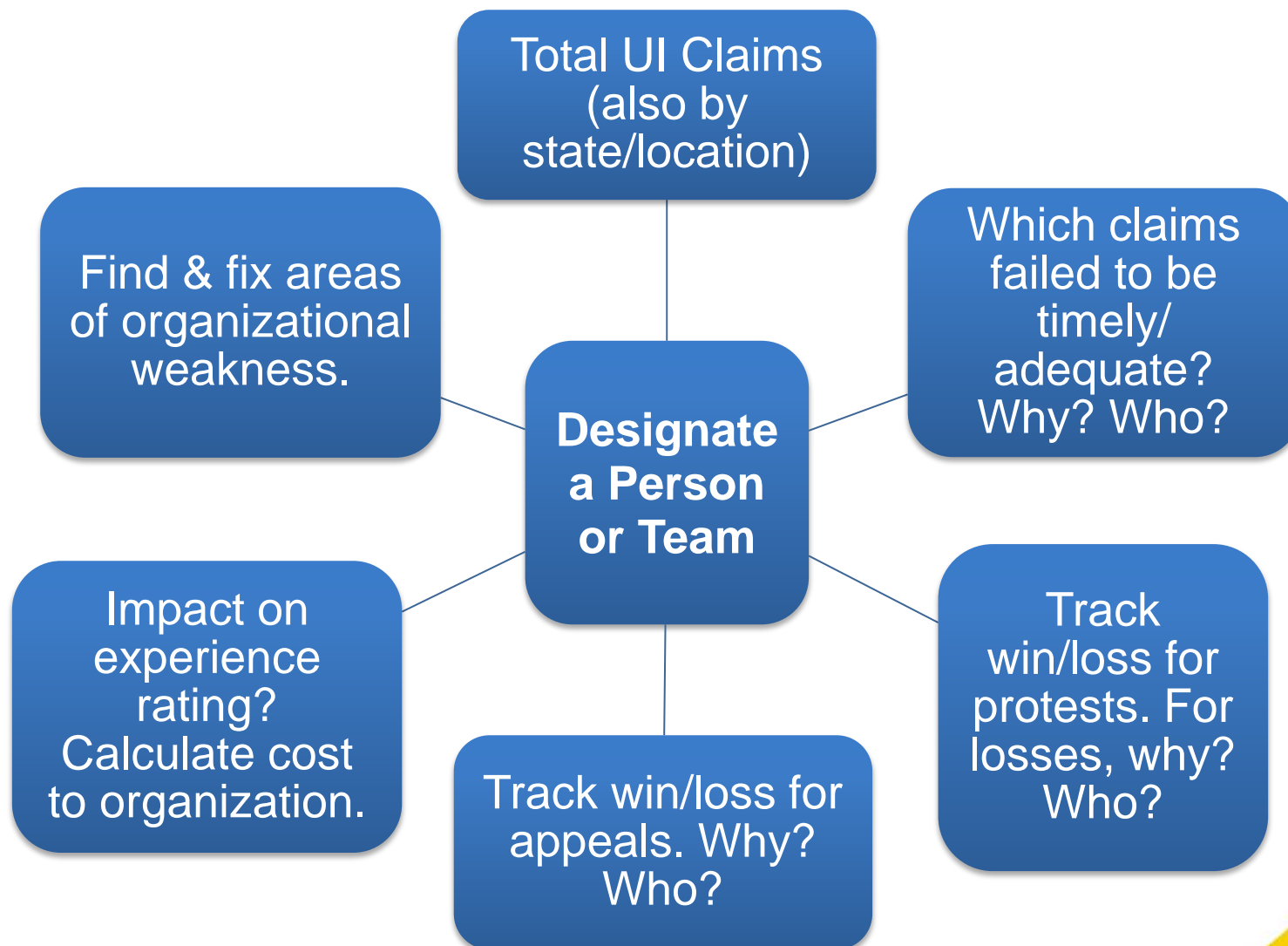
9. BENEFIT YEAR		10. SUB DATE		UNEMPLOYMENT COMPENSATION PAYABLE			
EFFECTIVE DATE	ENDING DATE			11. WEEKLY BENEFIT AMOUNT	12. WEEKLY BENEFIT RATE	MAXIMUM WEEKS	13. MAXIMUM ENTITLEMENT
05/18/2014	05/16/2015	05/27/2014		\$501		26	\$
14. BASE PERIOD WAGES PAID IN YOUR EMPLOY		QUARTER 1 YEAR 2013	QUARTER 2 YEAR 2013	QUARTER 3 YEAR 2013		QUARTER 4 YEAR 2013	
		\$9,117.37	\$12,426.55	\$11,167.23		\$13,646	
15. TOTAL WAGES PAID BY YOU		16. YOUR WEEKLY CHARGE		17. YOUR MAXIMUM POTENTIAL CHARGE			
\$46,357.24		\$501		\$13,026.00			

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THIS ENTIRE SIDE MUST BE SENT WHEN RESPONDING BY FAX.

DO NOT RETURN BY MAIL IF PROTEST IS FAXED

UI Integrity Oversight Plan



Best Practices

“ACT.”

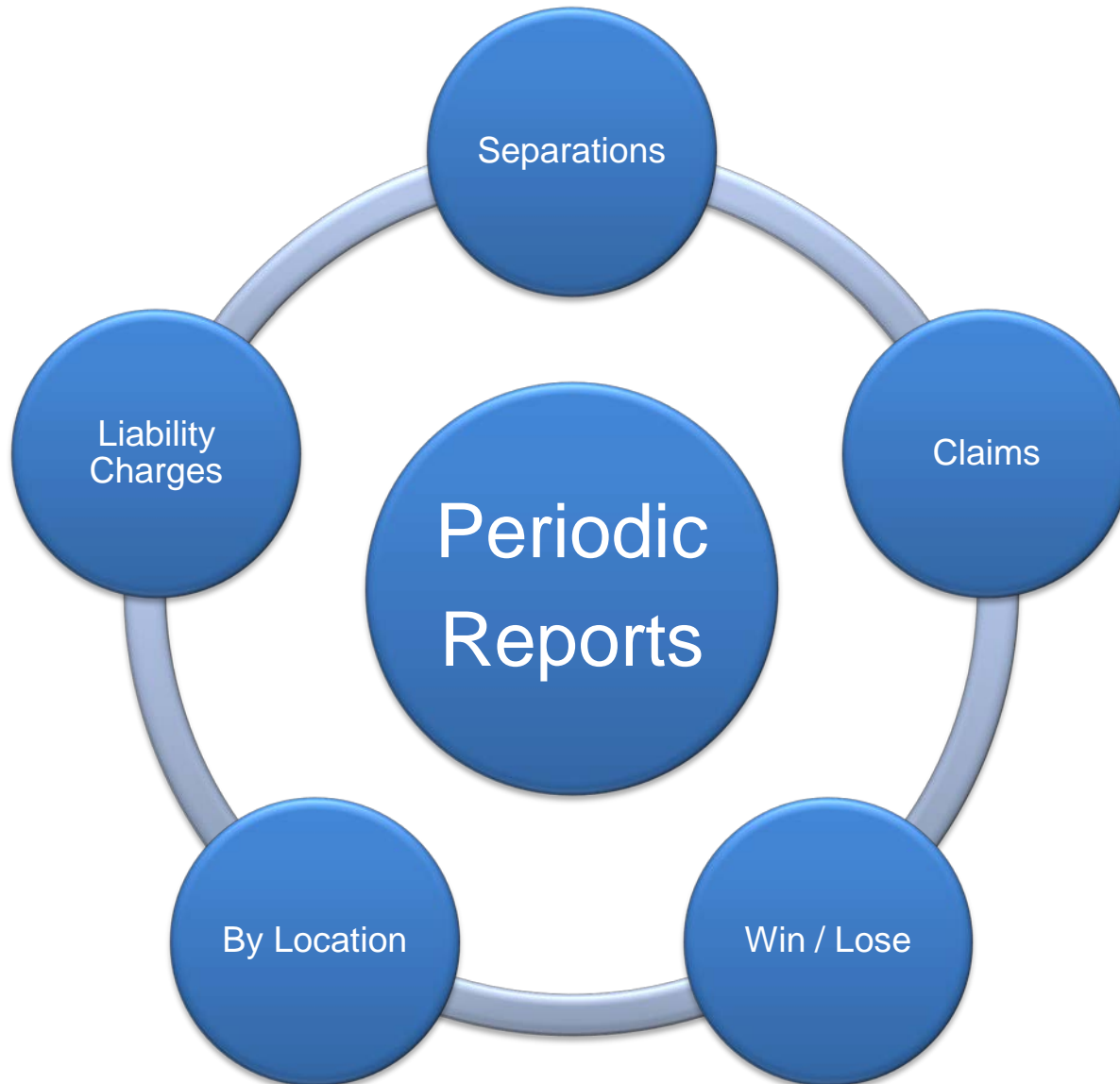
Provide information to UI
agencies that is:

Accurate

Complete

Timely

UI Claims Admin: Reporting



“Float like a butterfly, sting like a bee. You cannot hit what you cannot see.”

— Muhammad Ali

General Evaluation

- Perform account balancing (per state records) – QTR by QTR rearward review for all UI jurisdictions
- Determine what credits found eligible for refund & if debits, found if correct.
- Research for any missing / incomplete or untimely reporting on the account.
- Review all M&A past 3 years.
- Help reduce source of potential penalty or increased UI tax expense.



Photo credit: [motone](#)

UI Resources



Emptech's UI Tips

Go [here](#) to download three pages of UI Tips from Emptech.

- UI Integrity [State Legislation Tracker](#)
- How Nonprofit Employers Can [Reduce UI Cost](#)
- Tips on [Choosing a UCM Vendor](#)

Emptech Blog

Go [here](#) to get Emptech's best UCM blog posts and resources in one place.

Is Your UCM Broken?

[Download](#) this one page checklist to assess the state of your UI Claims Administration

Learn more about Emptech's UI Claims Solution

Go [here](#) to learn more, and [here](#) to contact Emptech.

Thank You!



Questions??

Contact:

(203) 738-0545 / r.henderson@emptech.com

- Employment Tax Consulting
- UI Claims Management
- Credits
- Talent Management
- Electronic I-9
- Verification of Employment



CALIFORNIA PAYROLL CONFERENCE 2014
A WEALTH OF KNOWLEDGE

Thank you for your attention