

Wisconsin Unemployment Exclusion For Officers

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Business owners hope to never need to utter the proverb “desperate times call for desperate measures,” but changes in unemployment tax rates and increased wage caps may just be desperate enough times to consider the Wisconsin Election to Exclude Principal Officer Wages. Certain corporate employers may elect to exclude the wages of all principal corporate officers under Wisconsin's Unemployment Insurance (UI) Law, meaning each officer's wages would not be subject to state UI taxes, potentially saving hundreds of dollars per officer.



Why make the election now?

The economic slowdown has stressed state and federal unemployment fund reserves, resulting in additional unemployment taxes spread across all employers, regardless of individual unemployment experience. State UI rates are based on unemployment reserves, and increased claims and longer unemployment eligibility bumped up rates in recent years. Additionally, the Wisconsin UI wage limit increased from \$10,500 in 2009 to \$12,000 in 2010 and \$13,000 in 2011. As a result, many employers who previously paid as little as \$100 per employee per year in unemployment tax will pay \$400 or more per employee in 2011.

Why wouldn't a corporation make the election?

Like all tax incentives, there are requirements to be eligible as well as more to the decision than simply the potential immediate tax savings. Certain criteria must be met to be eligible for the election:

- ✓ The corporation must have annual UI taxable payroll of \$500,000 or less for the calendar year preceding the year of election.
- ✓ The corporation must have principal officers (i.e. president, vice president, secretary and treasurer) who own 25% or more of the corporation.
- ✓ Under the election, wages of **all** the principal officers owning 25% must be excluded.
- ✓ The corporation must file an *Election to Exclude Principal Officers* ([Form UCT-7937](#)) by **March 31st** of the year it is requesting to make the election. For new employers, the form is due when the first quarterly report is due.

Once the election is approved, it remains in effect as long as the conditions above are met. Therefore, the election does not need to be made every year, but the business is required to correspond any change in the 25% owners to the [Wisconsin Department of Workforce Development](#) (DWD). After the election is made, a corporation can rescind it with a letter to the DWD prior to March 31st. Once an election is rescinded, the corporation cannot reelect the office exclusion again.

Why wouldn't a corporation make the election?

As with many tax incentives, the officer exclusion election is rarely an open and shut case. The Federal Unemployment Tax Act (FUTA) does not recognize this exclusion and Wisconsin employers receive a credit on their FUTA return for state UI paid. FUTA tax is calculated as 6.2% on the first \$7,000 paid each employee within a calendar year, but employers receive a 90% offset credit against this 6.2% tax for state UI paid on the FUTA wages reported, resulting in net FUTA tax of 0.8%. If the exclusion is elected, employers have to pay the full 6.2% FUTA tax on the corporate officer wages. While it is a complicated calculation, the math works out in favor of the employer if it has enough employees to make up the difference between the state wage limit of \$13,000 and the federal limit of \$7,000.

What's the next step?

The decision whether to elect the corporate officer exclusion depends on a number of factors unique to individual businesses. A poorly thought out decision could lead to significant increased unemployment tax costs, so we recommend careful consideration of all contributing factors. You can go the do-it-yourself method using resources available on the DWD [website](#) or contact Nicole Anderson, CPA nanderson@komisarbrady.com or Michael Burzynski, CPA mburzynski@komisarbrady.com from Komisar Brady to walk you through the process.

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