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Unemployment Compensation (Insurance) and Military Service

Julie M. Whittaker

Specialist in Income Security

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Summary

The Unemployment Compensation (UC) program contains several provisions relevant to current and former military service personnel and their families. The UC program does not provide benefits for military servicemembers on active duty. However, former active duty military personnel (and certain reservists) recently separated from active duty may be eligible for Unemployment Compensation for Ex-Servicemembers (UCX).

Spouses of military service personnel who voluntarily quit a job to accompany their spouses on account of a military transfer may be eligible for UC benefits, based on the laws of the state where the civilian spouse was employed.

Military service of business owners, employees, and employees' spouses may impact the state unemployment tax rate that certain employers face. States may choose to create provisions that remove or limit these tax increases in certain situations.

Individuals should contact their state's unemployment agency to obtain information on how to apply for and receive unemployment benefits based upon military service. The U.S. Department of Labor (DOL) maintains a website with links to each state's agency at <http://www.workforcesecurity.doleta.gov/map.asp>.

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Unemployment Compensation Benefit Eligibility for Former Military Personnel

Unemployment Compensation for Ex-Servicemembers (UCX)¹ provides income support while former active duty military personnel or reservists² recently released from active duty search for work. The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that former servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits, and benefit duration.³

Once entitlement to regular unemployment benefits is exhausted, former servicemembers may qualify for both Emergency Unemployment Compensation (EUC08) and the Extended Benefit (EB) payments if those programs are active and available in their states.⁴ The EUC08 program's authorization terminated on December 28, 2013, for all unemployed persons. Since December 29, 2013, no EUC08 benefits have been available for any unemployed person.

UCX Financing: Reimbursable Employer

Unlike regular unemployment compensation (UC) benefits, UCX benefits and any subsequent EB benefits are not paid for by state unemployment taxes. Instead, the state submits the amount of UCX paid by the state to the former employing service (for example, the Air Force). Then, the service reimburses the state for the UCX benefits out of the service's operating budget.⁵

These UCX reimbursements flow as the transfers from the appropriate military services' appropriated operating funds into the Unemployment Trust Fund (UTF) account for such reimbursements (the Federal Employees Compensation Account, FECA). Then, FECA transfers funds to the proper state account within the UTF. (The now expired EUC08 benefits were paid from general funds from the U.S. Treasury and were not paid out of the former employer's operating budget.)

For example, if a former naval officer living in California claimed UCX benefits, the Navy would transfer funds from its operating budget into FECA. The funds would then be transferred to California's UTF account in order to reimburse California for those UCX benefit expenditures.⁶

¹ Established by the Ex-servicemen's Unemployment Act of 1958 (P.L. 85-848, 5 U.S.C. §§8521-8525) in 1958.

² In this report, the terms *reserves* or *reservists* include the Army and Air National Guard and their servicemembers.

³ Previously, in 1982, Congress had placed restrictions on benefits for former servicemembers (P.L. 97-362). In addition to a number of restrictive eligibility requirements, former servicemembers were required to wait four weeks from the date of their separation from the service before they could receive benefits. The maximum number of weeks of benefits a former servicemember could receive based on employment in the military was 13 (as compared with 26 weeks under the regular UC program for civilian workers).

⁴ For information on the EUC08 benefit, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*, by Katelin P. Isaacs and Julie M. Whittaker. For information on the Extended Benefit program, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

⁵ See CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker, for an explanation of how funds are transferred.

⁶ Former federal worker unemployment benefits (UCFE) are reimbursed in the similar way. For example, a former civilian Department of Defense (DOD) worker's UCFE benefit would be paid from a transfer of funds from DOD to (continued...)

A former servicemember may receive a combined unemployment benefit (UC and UCX) if the unemployment benefit is based upon a period that included military service as well as other employment. Generally, based upon each state's law, only the amount of the benefit that is attributable to military service would be charged to the agency.

For FY2013, approximately \$1.359 billion in unemployment benefits was distributed to former military personnel based upon military service. Of the total amount paid, \$788 million was for UCX and EB benefits (and thus paid by the former employing service) and the remaining \$571 million was for EUC08 (and paid from the general fund of the Treasury).

UCX Eligibility and Benefit Level

Former servicemembers may apply for UCX benefits in any state. Generally they would apply in the state where they are searching for employment. (This is different than in the regular UC program, where benefits are determined by the location of the unemployed worker's previous employment.) UC eligibility criteria and benefits vary by state. The former servicemembers must meet the same criteria that civilian workers are required to meet for their UC benefit eligibility. Thus, two former servicemembers with the same earnings and work history may qualify for different amounts of benefits if they file for UCX in different states. The equivalent military measurement of wages and time in service are used to determine eligibility and benefit levels.⁷

Active Duty and UCX

Active military personnel are considered to be working and thus cannot qualify for UCX or regular state Unemployment Compensation (UC) benefits.

Conditions for UCX Eligibility

If the former servicemember was originally in the active duty military, he or she must have left military service under honorable conditions and either completed a full term of service or have been released early under a qualifying reason.

If the former servicemember was a reservist formerly on active duty, he or she must have been on active duty for at least 90 continuous days.

(...continued)

the appropriate state account within the UTF. One substantial difference in benefit determination for UCFE as compared to UCX is that an individual's UCFE benefit would be based upon where the individual had worked rather than where the individual has chosen to search to file for UCX benefits.

⁷The state in which the former servicemember files for a claim determines the UCX benefit level and duration. The weekly and maximum amounts of UCX payable to an individual under the UCX program are determined under the applicable state laws. The UCX benefit is required to be the same amount, on the same terms, and subject to the same conditions as the state UC that would be payable to the individual under the applicable state law. The individual's federal military service and federal military wages (including the value of housing) are assigned or transferred as employment and wages covered by that state law, subject to the use of the applicable Schedule of Remuneration. That is, for claims purposes, military wages are determined by the pay grade at separation from military service. A wage table is provided by the federal government to calculate the equivalent civilian wages for each military pay grade. These tables are provided each January. For the 2014 schedule, see Unemployment Insurance Program Letter 2-14, found at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6500.

UCX and Training/Education

UCX benefits are not payable during periods in which the former servicemember is eligible to receive certain allowances or educational assistance allowances from the Survivors' and Dependents' Educational Assistance Program or the Department of Veterans' Affairs Vocational Rehabilitation and Education Program. Participation in the Montgomery GI bill does not preclude receipt of UCX benefits; however, having student status does limit UC benefit eligibility in most states, and these limitations would extend to those workers receiving UCX benefits. Many states exclude workers while they attend school, and some states include vacation periods in that exclusion.⁸

Self-Employed and Sole Proprietor Ex-Servicemembers

When a former servicemember was previously self-employed or was a sole-proprietor, the worker would have been excluded from receiving UC benefits. After active duty, if the former servicemember is unemployed, the former servicemember would qualify for UCX benefits based on military service. However, most states require that the worker be searching for employment and would not cover a worker who was reestablishing self-employment or a small business.⁹

Civilian Spouses Who Quit Employment Because of Military Spouse Transfers

Treatment of civilian spouses who quit their employment because their military spouse was transferred varies greatly among the states. In the majority of states, a quit to follow a transferred spouse may be deemed a "good personal" cause and the newly unemployed worker may receive UC benefits. However, some state UC programs do not award UC benefits to workers who quit their jobs because a spouse was transferred, deeming this as a "voluntary quit." The laws of the state may go further and include a specific disqualification for claimants who quit work to relocate with a spouse until certain additional income is generated.

The disqualification following a "voluntary quit" continues until the claimant returns to work, completes a specified duration of work, and earns wages of a specified amount. In other states, the disqualification is time-limited. These states penalize the worker for quitting, but recognize that economic conditions may be such that even a person who diligently seeks work may find none. The reasoning is that beyond a certain point, if a diligent job seeker is still unemployed, such continuing unemployment is attributable to labor market conditions rather than their decision to quit. Thus, spouses relocating to areas of high unemployment or limited opportunities may become eligible for benefits even if initially disqualified.

⁸ For more information on the states' approaches on UC eligibility for students, see CRS Report R42707, *Unemployment Compensation (UC): Eligibility for Students Under State and Federal Laws*, by Julie M. Whittaker. Also, see Chapter 5 "Nonmonetary Eligibility" of the U.S. Department of Labor, Employment and Training Administration, *Comparison of State Unemployment Laws 2013*, Washington, DC, 2013, p. 5-35 through 5-38. <http://ows.doleta.gov/unemploy/pdf/uilawcompar/2013/nonmonetary.pdf>.

⁹ An exception to this is those states that offer a Self-Employment Assistance (SEA) program. See CRS Report R41253, *The Self-Employment Assistance (SEA) Program*, by Katelin P. Isaacs.

Twenty-four states and the District of Columbia allow UC benefits if a worker quits to accompany a spouse who has been transferred (labeled “Y” in **Table 1**). In addition, another 21 states have special exceptions for workers who quit to follow their transferred military spouse (labeled as “Military only”).

Table 1. Unemployment Compensation Benefit Eligibility for Workers Who Voluntarily Quit Because of a Spousal Transfer

State	Spouse Transfer	State	Spouse Transfer
Alabama	Military Only	Montana	Military only
Alaska	Y	Nebraska	Y
Arizona	Military only	Nevada	Y
Arkansas	Y	New Hampshire	Y
California	Y	New Jersey	Military only
Colorado	Y	New Mexico	Military only
Connecticut	Y	New York	Y
Delaware	Y	North Carolina	Y
District of Columbia	Y	North Dakota	N
Florida	Military only	Ohio	Y
Georgia	Military only	Oklahoma	Military only
Hawaii	Y	Oregon	Y
Idaho	N	Pennsylvania	Y
Illinois	Y	Rhode Island	Y
Indiana	Y	South Carolina	Y
Iowa	Military only	South Dakota	Military only
Kansas	Military only	Tennessee	Military only
Kentucky	Military only	Texas	Military only
Louisiana	N	Utah	Military only
Maine	Y	Vermont	N
Maryland	Military only	Virginia	N
Massachusetts	Y	Washington	Y
Michigan	Military only	West Virginia	Military only
Minnesota	Y	Wisconsin	Y
Mississippi	Military only	Wyoming	Military only
Missouri	Military only		

Source: CRS compilation from Table 5.6 in the *Comparison of State Unemployment Insurance Laws, 2013*, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 2013. <http://ows.doleta.gov/unemploy/pdf/uilawcompar/2013/nonmonetary.pdf>. Additional requirements may be imposed to qualify for these exceptions.

Impact of Military Service on Employers' State Unemployment Taxes

State unemployment taxes are levied on employers based on a combination of established rates and the employer's past history of its workers using the UC system. Generally, employers with a greater history of unemployed workers would have a worse experience rating and would pay higher state unemployment taxes. Military service of business owners or employees may impact the tax rate that certain employers face. Furthermore, if workers who quit to join a transferred military spouse receive UC benefits, this may impact the overall state unemployment tax burden of most, if not all, of the state's employers. Below are some examples of these situations:

- A business owner, if called up for active military service, may need to lay off some or all of the business's workers. Once the business owner returns from military service, the revival of the business may mean that the small business may face a new, higher state unemployment tax rate.
- If the servicemember serves for less than two years, some of the worker's UCX benefit may be based on nonmilitary work. (These workers receive a hybrid UC/UCX benefit.) In some states, their former (civilian) employers may face a state unemployment tax increase as a result.
- Workers who quit their jobs and move to accompany their military spouse may receive UC benefits in many states as listed in **Table 1**. These states do not charge UC benefits to employer accounts when workers voluntarily quit their jobs to accompany a transferred military spouse. The benefits paid to a worker accompanying a military spouse generally would not increase the state unemployment taxes of the worker's former employer. However, these benefits are still charged to the state's account within the UTF. As a result, the cost of benefits is passed on to the state's employers as a socialized cost and may increase the overall state unemployment tax rate.

States may choose to create provisions that remove or limit these tax increases in certain situations. For example:

- In Illinois, business owners who are called to active duty from the reserves and had to close their firms are not charged for the increases attributable to UC benefits for the workers who lose their jobs on account of the closure. When the business owner returns and reopens his or her business, the business's state unemployment tax rate is not increased.
- Some states provide for the non-charging of benefits for unemployment directly resulting from reinstatement of another employee upon his or her completion of uniformed service duty.