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Unemployment Compensation (Insurance) and Military Service

Abstract

[From 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) 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. This report will be updated as events warrant.

Keywords

servicemember, service, member, UC, unemployment, compensation, program, benefit, duty, military service, personnel, civilian, spouse, benefit, employ, transfer

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Comments

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CRS Report for Congress

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Unemployment Compensation (Insurance) and Military Service

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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) 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. This report will be updated as events warrant.

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 released from active duty search for work. The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that ex-servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits and benefit

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.

duration.³ Military personnel on active duty do not qualify for Unemployment Compensation (UC)⁴ or UCX benefits.

UCX Eligibility and Benefit Level. Ex-servicemembers apply for UCX benefits in the state where they are searching for employment. UC eligibility criteria and benefits vary by state. The ex-servicemembers must meet the same criteria that civilian workers are required to meet for their UC benefit eligibility. Thus, two ex-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.⁵

If the ex-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 ex-servicemember was a reservist formerly on active duty, he or she must have been on active duty for at least 90 continuous days. UCX benefits are not payable during periods in which the ex-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.

Self-employed and Sole Proprietor Ex-Servicemembers. When an ex-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 ex-servicemember is unemployed, the ex-servicemember would qualify for UCX benefits

³ Previously, in 1982, Congress had placed restrictions on benefits for ex-servicemembers (P.L. 97-362). In addition to a number of restrictive eligibility requirements, ex-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 an ex-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 In law, this program is called the Unemployment Compensation program. However, it is commonly referred to as the Unemployment Insurance program, reflecting its social insurance design. See CRS Report RL33362, *Unemployment Insurance: Available Benefits and Legislative Activity*, by Julie M. Whittaker, for information on the UC program.

⁵ The 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 which would be payable to the individual under the applicable state law. The individual's federal military service and federal military wages 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 and then is equated to civilian wages for each military pay grade.

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.

UCX Financing. The UCX benefit is funded by the federal government through its federal account in the Unemployment Trust Fund⁶ (UTF). Each state is reimbursed by the federal government for each unemployed worker whose base period wages included federal military wages.

Civilian Spouses Who Quit Employment Because of Military Spouse Transfers

Civilian spouses who quit their employment because their military spouse was transferred generally will not qualify for UC benefits. Most 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 several states — Colorado, Maryland, Massachusetts, Ohio, Texas, Utah, and Virginia — include a specific disqualification for claimants who quit work to relocate with a spouse.

In several states, 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. For example, in Texas, the disqualification is generally limited to 6 weeks, and, in West Virginia, they must find work in insured employment for 30 days and then become involuntarily unemployed, at which time the disqualification will be lifted.

Transferred Spouse Exception (Unconditional on Military Service).

Nine states allow workers who quit because of their spouse’s job transfer to receive UC benefits. In column (a), **Table 1** lists these states.

Military Spouse Exception. In addition to the 9 states allowing UC benefits if a worker quits to accompany a spouse who has been transferred, 8 states have special exceptions for workers who quit to join their transferred military spouse. These exceptions are shown in column (b) of **Table 1**. Thus, a total of 17 states allow the civilian spouse of a transferred military servicemember to receive UC benefits.

⁶ See CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Christine Scott and Julie M. Whittaker, for an explanation of how funds are transferred.

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

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

Source: CRS compilation from *Comparison of State Unemployment Insurance Laws, 2005*, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security.

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 UC taxes. Military service of business owners or employees may impact the tax rate that certain employers face. Furthermore, if workers who quit to join their 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.

- A business owner, if called up for active military service, may need to layoff 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 17 states. 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 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 the benefits are passed onto 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 reserve and had to close their firms — are not charged for the increases in unemployment compensation benefits for the workers who lose their jobs. When the business owner returns and reopens his or her business, the business's state unemployment tax rate is not increased.
- In Texas and Maine, if an employee was called to active military service, — but then qualifies for UC benefits — the employer does not face a higher state unemployment tax rate. This is even if a portion of the UC/UCX benefit is based on the former employee's earnings at the previous employer.