Conformity Requirements for State UC Laws

Treatment of Retirement Pay

Federal Law

§ 3304(a)(15), FUTA, requires that UC payable to an individual be reduced by any pension, retirement, annuity, or similar periodic payment the individual is receiving.

As originally enacted, §3304(a)(15) required dollar-for-dollar reductions in UC for all pension payments received by claimants. In 1980 Congress amended §3304(a)(15) to give states two options. The first is to reduce benefits only when a base period or chargeable employer has contributed to the pension plan if services for the base period or chargeable employer affect eligibility or increase the amount of a pension. The other option is to limit the amount of the reduction to take into account contributions made by the individual to the pension.

Frequently Asked Questions

1. What types of retirement pay does § 3304(a)(15), FUTA, apply to?

§ 3304(a)(15) applies only to retirement pay collected by the person who earned it. It does not apply to a survivor's pension payable to a widow/er or other survivor that is not based on the survivor's own previous work. § 3304(a)(15) has been interpreted to apply to:

- Social Security old age and disability retirement benefits, including those based on self-employment.
- All types of state and local government pensions.
- Federal civil service pensions including disability pensions.
- Private for-profit employer pensions.
- Military retirement and military disability/retirement pensions.
- Railroad retirement annuities.

2. What does the term "contributions made by the individual" mean in the context of the pension deduction requirement?

The term "contributions made by the individual" means that the employee actually made a direct contribution, either payroll deduction or from an employee's personal funds, to the retirement plan. A wage agreement between workers and the employer resulting in increased employer contributions to a retirement plan in exchange for a surrender in wages does not constitute a contribution made by the individual. See UIPL 22-87, Change 2 for a discussion of this topic.

3. If the state wants to "take into account" an individual's contribution to a pension when determining the amount to be deducted, what must the state law provide?

If this option is selected, the state law must specify that:

- the offset is reduced because the individual has contributed to the pension plan;
- the percentage by which the offset will be reduced; and
- whether the reduction in offset applies to all pension plans or only specific pension plans.

This option may be applied to Social Security, Railroad Retirement, and Federal Civil Service retirement payments. If the state chooses to apply this option solely to any or all of these pensions, it does not have to specify that it is because the individual has contributed to the pension, because employee contributions to these pensions are governed entirely by Federal law. See UIPL 22-87, Change 2.

5. What retirement payments must cause a reduction in U.C.?

UC must be reduced only due to receipt of retirement pay that is—

- For a week of unemployment beginning during a period for which the individual is receiving retirement pay;
- Reasonably attributable to such week;
- Based on the previous work of the individual;
- 100% financed by a base period or chargeable employer; AND
- Based on work affecting eligibility for, or increasing the amount of, the retirement payment.

References

UIPL 10-77. State Implementation of Pension Reduction Requirement.

UIPL 22-87. Pension Offset Requirements Under FUTA.

UIPL 22-87, Change 1. Effect of Rollovers on Pension Offset Requirement.

UIPL 22-87, Change 2. Treatment of Retirement Pay – Employee Contributions.