1-15-2004

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Keywords
Unemployment, pension, social security, retirement, employ, UC, state

Disciplines
Other Business

Order Code 95-1180 EPW
Updated January 15, 2004

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Background

Unemployment compensation (UC) may be reduced by a claimant's retirement income. Specific offset rules vary by state. This offset, which became federal policy in 1980, is intended to resolve the tension between the central premise of UC eligibility and the condition of retirement. That is, to be eligible for UC, a worker must have lost a job involuntarily for economic reasons, be able and willing to work, and be actively engaged in job search. However, a worker who retires leaves a job voluntarily, perhaps leaving the work force altogether. Caught between these concepts are: (1) pensioners who find other work and then become unemployed; and (2) workers drawing social security retirement benefits who continue to work and become unemployed. Some countries (e.g., France, Germany, Japan) deal with this conflict by paying regular unemployment benefits only to persons below pensionable age.

In the U.S. system, the states pay UC benefits and establish most eligibility and benefit rules. However, federal law requires that all states reduce UC for certain retirement income. The law does give states flexibility in two respects: (1) how to treat employee contributions to pensions; and (2) whether to apply the offset to all pension income or to limit it to pensions paid by a UC claimant's "base-period employer" (i.e., an employer during the 52-week period before job loss, a period that states use to determine a claimant's covered wages).

When a UC claim is filed, the claimant must report any "disqualifying income." Retirement income falls into this category. If the claimant has retirement income, the state calculates an offset amount according to its rules and reduces any UC entitlement by the offset, but not below zero.

Legislative History

Before 1980, there was no federal rule regarding receipt of retirement income by UC claimants. In 1978, 22 states treated pensions from base-period employers as disqualifying income, and 14 states treated all pensions as disqualifying income. The other 17 jurisdictions ignored pension income. Only 14 states offset Social Security retirement benefits against UC.

In 1974, a New York study had found that 11% of UC claimants received retirement income while on UC. This sizable overlap raised the question of whether these claimants were actually ready and available for work as required. It was alleged that some retirees were using UC as a part-year supplement to their retirement income, and it was argued that this was an inappropriate use of the payroll taxes paid by employers to help their temporarily jobless workers.

In the Unemployment Compensation Amendments of 1976 (P.L. 94-566), Congress voted to require that all retirement income be offset against UC effective Oct. 1, 1979. This effective date was delayed to Apr. 1, 1980, by the Emergency Unemployment Compensation Extension Act of 1977 (P.L. 95-19). The law was amended again before taking effect by the Multiemployer Pension Plan Amendments Act of 1980 (P.L. 96-364). This final law limits the federally required offset to benefits from a base-period employer that were actually affected by the base-period employment. This limitation does not apply to Social Security benefits, which may be offset regardless of when entitlement occurred. This law also permits states to disregard the claimant's own contributions to a pension or Social Security in computing the offset amount.

How the States Apply the Offset

States can impose a broader, but not a narrower, offset than federal law requires. Three jurisdictions (the District of Columbia, Vermont, and Virginia) offset all pensions from all employers against UC. The other 50 programs restrict the offset to pension income paid by base-period employers. About half of these jurisdictions offset this pension income only if the pension amount were increased by the base-period employment. They are:

Alabama	Hawaii	Missouri	Oklahoma	Wisconsin
Alaska	Iowa	Montana	Pennsylvania	
Arizona	Kansas	Nevada	Puerto Rico	
California	Kentucky	New Hampshire	Tennessee	
Connecticut	Maine	New York	Washington	
Georgia	Massachusetts	North Dakota	West Virginia	

However, the offset amount is still the full pension amount, not simply the amount of the increase resulting from base-period employment.

All but 14 jurisdictions disregard an employee's own contributions in applying the offset. The jurisdictions that do *not* disregard employee contributions are:

Alabama	Indiana	Missouri	Utah
Colorado	Louisiana	North Carolina	Virginia
District of Columbia	Minnesota	Ohio	Virgin Islands
	Mississippi	Oklahoma	West Virginia

For Social Security, this disregard generally amounts to half the benefit because employees pay half the Social Security payroll tax. According to the Department of Labor 28 states do not reduce UC benefits by Social Security payments.