



# 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.

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)<sup>1</sup> provides income support while former active duty military personnel or reservists<sup>2</sup> 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 duration.<sup>3</sup>

Once entitlement to regular unemployment benefits is exhausted, ex-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.<sup>4</sup> As of this writing, absent congressional action the EUC08 program's authorization will terminate on the week ending on or before January 3, 2012, for all unemployed persons.

The federal government funds these benefits through the transfers from the appropriate military services' budgets<sup>5</sup> to the Unemployment Trust Fund<sup>6</sup> (UTF) to reimburse the appropriate states for the UCX benefits distributed to unemployed ex-servicemembers. For FY2010, approximately \$1.571 million in unemployment benefits (UCX, EUC08, EB, and the since expired \$25 federal additional compensation benefit) were distributed to former military personnel.

Military personnel on active duty do not qualify for regular state Unemployment Compensation (UC) or UCX benefits because they are considered to be working.

### UCX Eligibility and Benefit Level

Ex-servicemembers generally 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

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

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

<sup>3</sup> 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).

<sup>4</sup> For information on the EUC08 benefit, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Katelin P. Isaacs, Julie M. Whittaker, and Alison M. Shelton. For information on the Extended Benefit program, see CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Katelin P. Isaacs, Julie M. Whittaker, and Alison M. Shelton.

<sup>5</sup> For example, if a former naval officer claimed UCX benefits, the Navy would transfer funds into the UTF to pay for those benefits.

<sup>6</sup> For details on the Unemployment Trust Fund, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker.

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.<sup>7</sup>

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 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.<sup>8</sup>

### **UCX Financing**

The UCX benefit is funded by the federal government through its federal account in the Unemployment Trust Fund (UTF)<sup>9</sup>. 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 may not qualify for UC benefits. Many state UC programs do not award UC benefits to workers who

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<sup>7</sup>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 that 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 to calculate the equivalent civilian wages for each military pay grade.

<sup>8</sup> An exception to this are those states that offer a Self-Employment Assistance (SEA) program. See CRS Report R41253, *The Self-Employment Assistance (SEA) Program*, by Katelin P. Isaacs.

<sup>9</sup> 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.

quit their jobs because a spouse was transferred, deeming this as a “voluntary quit.” The laws of three states (Maryland, Ohio, and Texas) go further and include a specific disqualification for claimants who quit work to relocate with a spouse until certain additional income is generated. However, Maryland and Texas both exempt military spouses from this disqualification.

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.

### **Transferred Spouse Exception (Unconditional on Military Service)**

Twenty-three states allow workers who quit because of their spouse’s job transfer to receive UC benefits. **Table 1** lists these states, designating them in the column labeled “Spouse Transfer” with a “Y.”

### **Military Spouse Exception**

In addition to the 23 states allowing UC benefits if a worker quits to accompany a spouse who has been transferred, 13 states have special exceptions for workers who quit to join their transferred military spouse. These exceptions are labeled as “Military only” in **Table 1**. Thus, a total of 36 states allow the civilian spouse of a transferred military servicemember to receive UC benefits.

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

| State                | Spouse Transfer | State          | Spouse Transfer |
|----------------------|-----------------|----------------|-----------------|
| Alabama              |                 | Montana        | Military only   |
| Alaska               | Y               | Nebraska       | Y               |
| Arizona              | Y               | 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 | Military only   | North Dakota   |                 |
| Florida              | Military only   | Ohio           |                 |
| Georgia              | Military only   | Oklahoma       | Y               |
| Hawaii               | Y               | Oregon         | Y               |
| Idaho                |                 | Pennsylvania   | Y               |

| State         | Spouse Transfer | State          | Spouse Transfer |
|---------------|-----------------|----------------|-----------------|
| Illinois      | Y               | Rhode Island   |                 |
| Indiana       | Y               | South Carolina | Military only   |
| Iowa          |                 | South Dakota   |                 |
| Kansas        | Y               | Tennessee      |                 |
| Kentucky      | Military only   | Texas          | Military only   |
| Louisiana     |                 | Utah           |                 |
| Maine         | Y               | Vermont        |                 |
| Maryland      | Military only   | Virginia       |                 |
| Massachusetts | Y               | Washington     | Y               |
| Michigan      | Military only   | West Virginia  |                 |
| Minnesota     | Y               | Wisconsin      |                 |
| Mississippi   | Military only   | Wyoming        | Military only   |
| Missouri      |                 |                |                 |

**Source:** CRS compilation from *Comparison of State Unemployment Insurance Laws, 2010 (and internal errata)*, and interim updates, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security. 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 36 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 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 the benefits are 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 reserve 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.
- Maine, South Dakota, Montana, Virginia, Washington, and Wyoming 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.

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