

Option (6)- Deduct Severance Pay

a) **Definition:**

If an individual is laid off, the employer may provide a “severance” or “separation” payment to help in dealing with the loss of his or her employment.

b) **Current Policy/Practice:**

Under current law such payments are not deducted from the unemployment benefits the individual receives.

c) **Other States’ Practice in This Area**

The majority of states wither reduce the weekly benefit amount by prorating or do no pay benefits at all.

(See Attached Chart) Pages 70-73

d) **Proposed Change:**

Deduct severance/separation payments from unemployment benefits.

e) **Estimated Fiscal Impact on Fund Per Year**

There is no sure way to determine what impact such deductions would have, based upon a recent survey of claims, it is estimated that approximately 7% of claims involve severance pay.

f) **Pros and Cons of This Change:**

Pros- Would save trust fund monies.

Cons-Employer Perspective-None, other than perhaps having to provide verification of severance pay

Claimant Perspective- Less benefits received

g) **Required Action to Implement**

Legislative

h) **Time Frame Required for Implementation**

Approximately one month

i) **Impact on Agency in Implementation**

IT programming/forms revisions/staff training/education

j) **Agency Recommendation:**

Yes

k) **Other Comments/Considerations:**

None

Table 25—TYPES OF DISQUALIFYING INCOME — Continued

State	Workers' Compensation ¹	Wages in Lieu of Notice ¹	Dismissal Payments ^{1,2}	Pensions			
				All Pensions	Base Period Employer Financed Pensions	Deductions Adjusted for:	
						Employee Contributions to Pensions	Pensions Not Affected by Base Period Work ⁵
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Maryland		R ⁶	R ⁶		X ⁶	X	X
Massachusetts	D ³	D ⁹	D ⁹		X	X	X
Michigan		D	D		X	X ⁸	X ¹⁴
Minnesota	R ³	R	R ²²		X		X
Mississippi					X		
Missouri	R ³	R ³⁷			X ⁷	X ³¹	
Montana	D ³		R ²⁰		X	X	X
Nebraska	R ³	R	R		X ⁷	X	
Nevada	D ³	D	D		X	X	
New Hampshire	R	R	R		X	X	X
New Jersey		D			X ^{7,10,17}	X ¹⁷	X
New Mexico		R			X	X	X
New York	R ³				X	X	
North Carolina		D	D		X	X	X
North Dakota	D		R ²³		X	X	X
Ohio	R ³	R	R		X		X
Oklahoma		R	R ²		X ²⁶	X ³⁸	X
Oregon					X		X
Pennsylvania					X ¹⁷	X ¹⁷	X
Puerto Rico					X	X	
Rhode Island	R				X	X ⁸	
South Carolina					X ¹⁴	X	
South Dakota	R	R	R		X	X	
Tennessee	D ³³				X ³⁴	X ³⁵	X
Texas	D ³	D			X		
Utah	D ³	R	R		X		
Vermont	R	R	R		X	X	X
Virginia		R	R		X ²⁹	X ²⁹	X ²⁹
Virgin Islands				X			
Washington	D ³	R	R ²⁴		X	X	X ¹⁴
West Virginia	D ³	D			X		
Wisconsin	R & D ¹⁸	R ¹⁹	R ¹⁹		X ¹⁷	X ¹⁷	X
Wyoming		D ³²	D ³²		X ²⁶	X	

FOOTNOTES FOR TABLE 25

1. "R" means weekly benefit is reduced by weekly prorated amount of the payment. "D" means no benefit is paid for the week of receipt.
2. State laws also identify dismissal payments as dismissal allowances, dismissal wages, separation allowances, termination allowances, severance payments.
3. **Alabama, Colorado, Connecticut, Iowa:** temporary disability. **California, Illinois, Utah:** temporary total disability. **Georgia, Hawaii:** temporary partial or temporary total disability. **Florida, Kansas:** temporary total disability or permanent total disability. **Louisiana, Texas:** temporary partial, temporary total, permanent partial, or total and permanent disability. **Massachusetts:** total disability except payments for dismemberment. **Minnesota:** any wage compensation loss under a workers' comp. law. **Montana:** compensation for disability under workers' comp. or occupational disease law of any state, or similar U.S. laws or Social

FOOTNOTES FOR TABLE 25 — Continued

- Security disability law, except permanent partial disability under certain conditions. **Missouri:** temporary partial disability. **Nebraska:** temporary disability. **Nevada:** temporary total disability, temporary partial disability, or receives money for rehabilitative services under state law. **New York:** UI benefits limited to the difference between the amount of workers' comp. benefits received, and 100% of the claimant's average weekly wage. **Ohio:** wage loss only. **West Virginia:** temporary total disability. **Washington:** no benefit is paid for any day or days in which the person received, receives or will receive worker's compensation.
4. **Arkansas:** does not include dismissal pay in excess of 8 weeks, U.S. Armed Services severance pay, 'back pay' paid to settle a claim or grievance, or unemployment benefits paid from a private plan. Lump sum payments are disqualifying only for the week in which they were paid.
 5. Social Security and/or Railroad Retirement pensions, which are deducted in many states, are not included.
 6. **Maryland:** unless wages are payments made after the job was abolished and payments do not represent full wages and benefits. Lump sum retirement payment is not deducted if made at the time of layoffs or shutdown. Lump sum payments are not deducted if rolled over into a qualified retirement plan within 30 days.
 7. **Arkansas, Missouri, Nebraska, New Jersey:** except Social Security. **District of Columbia:** except social security survivors' benefits and military service disability from veteran's affairs.
 8. **Michigan:** if employee contributed to pension, but less than half, 50% of pension reduces UI; if employee contributed half or more to pension, pension does not reduce UI. **Rhode Island:** if employee contributed to the pension, 50% of weekly pension amount is deducted from WBA.
 9. **Massachusetts:** except for lump sum payments made in connection with a plant closing or where claimant required to sign release of claims.
 10. **New Jersey:** except railroad retirement.
 11. **Georgia:** disqualification is only imposed if the weekly amount of such remuneration exceeds the claimant's weekly benefit amount.
 12. **Georgia:** no reduction in the weekly benefit amount is imposed if the claimant contributed 50% or more toward the pension plan.
 13. **Illinois:** pension is disqualifying also if financed by the chargeable employer.
 14. **Alaska, Michigan, Pennsylvania, South Carolina, Washington:** no deductions for Social Security benefits.
 15. **Alabama:** excludes employment services by an inmate of a penal institution, and excludes from the definition of wages, employer paid educational benefits.
 16. **Colorado:** severance payments, wages in lieu of separation bonus and vacation pay result in a postponement of benefits. Severance pay also results in a reduction in benefits. If the payment covers only part of a week, partial benefits may be reduced if the individual is not OBA. If claimant receives Social Security there is a 50% deduction.
 17. **New Jersey:** an individual can rollover certain retirement funds without being subject to a reduction in unemployment compensation. **Pennsylvania:** lump-sum pension amounts are not deductible if the claimant was required to take the lump-sum pension payment in lieu of receiving monthly pension payments. In addition, lump-sum pension amounts are not deductible if they are rolled over into an eligible retirement account, such as an IRA, within 60 days of the receipt of the lump-sum payment. If only a portion of the lump-sum payment is rolled over into an eligible retirement account, that portion of the pension is not deductible. **Wisconsin:** lump-sum pension amounts are not deductible if they are rolled over into an eligible retirement account such as an IRA within 60 days of receipt of the lump-sum payment.
 18. **Wisconsin:** D if full week of temporary total disability (TTD), R if partial week of TTD or temporary partial disability (TPD). When reduced, disregard \$30 + 33% of remaining.
 19. **Wisconsin:** disqualifying income only if paid at full weekly rate, definitely allocated, and payable by the close of the week. Sick pay, holiday pay, vacation pay, and back pay are also forms of disqualifying income.
 20. **Montana:** severance pay is reportable as earnings in the weeks in which separation occurred.
 21. **Kentucky:** pension payments are not deductible if the worker contributed to the pension. If worker did not contribute then the pension is 100% deductible.
 22. **Minnesota:** dismissal payments include severance pay, bonus pay, vacation pay, sick pay, and any money payments except earnings. Vacation pay paid at permanent separation is not deductible income.
 23. **North Dakota:** severance payments are not deducted if based on prior services.
 24. **Washington:** negotiated settlements or proceeds from the early termination of a written employment contract are deductible and assigned at the same intervals as allocated under the contract.
 25. **California:** reduces benefits upon receipt of wages in lieu of notice unless those wages are paid pursuant to the Worker Adjustment and Retraining Notification (WARN) Act.
 26. **Kansas, Oklahoma, Wyoming:** excludes social security.
 27. **Kansas:** severance pay is reportable as earnings if paid on regularly scheduled payday(s) and all benefits continue during the period covered by the severance pay.

FOOTNOTES FOR TABLE 25 — Continued

28. **Arizona:** Benefits are not payable for weeks covered by wages in lieu of notice, dismissal payments, vacation, holiday, or sick pay. If such pay is less than the WBA for any week, it is reported as earnings and benefits are reduced accordingly.
29. **Virginia:** no deduction for social security or railroad retirement pension if the fund balance factor is at or above 50%; if the fund balance factor is below 50%, then benefits are reduced by half of social security or railroad retirement pension. No deduction of Social Security or Railroad Retirement pensions will occur during calendar year 2007, as the fund balance factor is above 50%.
30. **Idaho:** no deduction if the employee made any contribution to retirement pension, or for Social Security benefits.
31. **Missouri:** deduct only the percentage employer contributed
32. **Wyoming:** amount of payment is deducted from the WBA in the week of receipt.
33. **Tennessee:** any week that a claimant receives Temporary Partial Workers' Compensation, the claimant is disqualified from unemployment compensation for that particular week. Any other type of Workers' Compensation does not disqualify a claimant.
34. **Tennessee:** a claimant is disqualified from unemployment benefits if the weekly amount of pension is equal to or greater than the claimant's weekly benefit amount. If the unemployment weekly benefit amount is greater than the weekly pension, the claimant's weekly pension is deducted from his weekly unemployment benefit amount.
35. **Tennessee:** if the claimant contributed any amount at all to his pension fund during the base period, the pension is not disqualifying to the claimant.
36. **Alaska:** includes severance pay, vacation pay, bonus pay, sick pay and some types of holiday pay.
37. **Missouri:** payments made under the WARN Act are deductible. Any other wages in lieu of notice are not deductible.
38. **Oklahoma:** if an individual contributes to a pension, retirement, or annuity plan then there will be no reduction to the WBA.
39. **Indiana:** Dismissed and severance pay may be allocated, deducted in the week it was earned, or not deductible depending on the agreement between the parties.