Unemployment Insurance

Through federal and state cooperation, unemployment insurance programs are designed to provide benefits to regularly employed members of the labor force who become involuntarily unemployed and who are able and willing to accept suitable employment. Workers in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are covered under unemployment insurance programs.

To induce states to enact unemployment insurance laws, the Social Security Act of 1935 provided a tax offset incentive. A uniform national tax was imposed on payrolls of industrial and commercial employers who employed eight or more workers in 20 or more weeks in a calendar year. Employers who paid taxes to a state with an approved unemployment insurance law could credit (offset) up to 90 percent of the state tax against the federal tax. This ensured that employers in states without an unemployment insurance law would not have an advantage competing with similar businesses in states with such a law because they would still be subject to the federal payroll tax, and their employees would not be eligible for benefits.

In addition, the Social Security Act authorized grants to states to meet the costs of administering the state systems. By July 1937, all 48 states, the then territories of Alaska and Hawaii, and the District of Columbia had passed unemployment insurance laws. Later, Puerto Rico adopted its own program, which was incorporated in 1961 into the federal-state system. A similar program for workers in the U.S. Virgin Islands was added in 1978.

If employers are to receive an offset against federal taxes and if states are to receive federal grants for administration, federal law requires state unemployment insurance programs to meet certain requirements. These requirements are intended to ensure that a state participating in the program has an unemployment insurance system that is fairly administered.

One requirement is that all contributions collected under state laws be deposited in the unemployment trust fund of the U.S. Treasury Department. The fund is invested as a whole, but each state has a separate account to which its deposits and its share of interest on investments are credited. At any time, a state may withdraw money from its account in the trust fund, but only to pay benefits. Thus, unlike the situation in the majority of states having workers' compensation and temporary disability insurance laws, unemployment insurance benefits are paid exclusively through a public fund. Private plans cannot be substituted for the state plan.

Aside from federal standards, each state has major responsibility for the content and development of its unemployment insurance law. The state itself decides the amount and duration of benefits (except for certain federal requirements concerning federal-state Extended Benefits); the contribution rates (with limitations); and, in general, the eligibility requirements and disqualification provisions. The states also directly administer the programs collecting contributions, maintaining wage records (where applicable), taking claims, determining eligibility, and paying benefits to unemployed workers.

Coverage

Originally, coverage under the Federal Unemployment Tax Act (FUTA) had been limited to employment related primarily to industrial and commercial workers in private industry. However, several laws, including the Employment Security Amendments of 1970 and the Unemployment Compensation Amendments of 1976, added substantially to the number and types of workers protected under the state programs.

Private employers in industry and commerce are subject to the law if they have one or more individuals employed on 1 day in each of 20 weeks during the current or preceding year or if they paid wages of $1,500 or more during any calendar quarter in the current or preceding year.

Agricultural workers are covered on farms with a quarterly payroll of at least $20,000 or employing 10 or more employees on at least 1 day in 20 weeks of the year. Domestic employees in private households are subject to FUTA if their employer pays wages of $1,000 or more in a calendar quarter. Excluded from coverage are workers employed by their families and the self-employed.

Before 1976, employment in state and local governments and nonprofit organizations was exempt from coverage under FUTA. However, as a result of federal legislation enacted in 1976, most employment in these groups must now be covered by state law as a condition of securing federal approval of the state law. Under this form of coverage, state and local government and nonprofit employers have the option of making contributions or of reimbursing the state for actual benefit expenditures. Elected officials, legislators, members of the judiciary, and the state National Guard are still excluded, as are employees of nonprofit organizations that employ fewer than four workers in 20 weeks in the current or preceding calendar year. Many states have extended coverage beyond that provided by federal legislation.

Through special federal legislation, federal civilian employees and ex-servicemembers of the armed forces were brought under the unemployment insurance system. Benefits for those persons are financed through federal funds but are administered by the states and paid in accordance with the provisions of the state laws. A separate unemployment insurance law enacted by Congress covers railroad workers.

Amendments to FUTA made in 2000 added Indian tribes to the set of entities for whom coverage is required, although they are not liable for FUTA taxes. As a result, workers performing services for tribes are now potentially eligible to receive unemployment insurance benefits. Coverage is required when service is performed for any Indian tribe, band, nation, or other organized group or community that is recognized as eligible for federal assistance because of their status as Indians. The same permissible exclusion from coverage that is applicable to other governmental entities also applies to services performed for Indian tribes. If an Indian tribe fails to make payments to states as required, the tribe loses its FUTA exemption and may lose coverage.

Eligibility for Benefits

Unemployment benefits are available as a matter of right (without a means test) to unemployed workers who have demonstrated their attachment to the labor force by a specified amount of recent work or earnings in covered employment. All federal civilian employees, ex-servicemembers, and workers whose employers contribute to or make payments in lieu of contributions to state unemployment funds are eligible if they are involuntarily unemployed, able to work, available for work, and actively seeking work. Workers must also meet any other eligibility and qualifying requirements of the state law and be free from disqualifications. Workers who meet these eligibility conditions may still be denied benefits if they are found to have voluntarily quit their jobs without good cause or were discharged for misconduct.

Work Requirements

A worker's monetary benefit rights are based on his or her employment in covered work over a prior reference period called the *base period*, and these benefit rights remain fixed for a *benefit year*. In most states, the base period is the first 4 quarters of the last 5 completed calendar quarters preceding the claim for unemployment benefits. Under certain circumstances, many states now also allow an alternative base period, which is generally the most recent 4 completed calendar quarters.

Benefits

Under all state laws, the weekly benefit amount—that is, the amount payable for a week of total unemployment—varies with the worker's past wages within certain minimum and maximum limits. In most states, the formula is designed to compensate for a fraction of the usual weekly wage. Some states replace approximately 50 percent, subject to specified dollar maximums.

A considerable majority of state laws use a formula that computes weekly benefits as a fraction of wages in one or more quarters of the base period. Most commonly, the fraction is taken of wages in the quarter during which wages were highest, because this quarter most nearly reflects full-time work. In most of these states, the same fraction is used at all benefit levels. The other state laws use a weighted schedule that gives a greater proportion of the high-quarter wages to lower-paid workers than to those earning more.

Each state establishes a ceiling on the weekly benefit amount, and no worker may receive an amount higher than the ceiling. The maximum may be either a fixed dollar amount or a flexible amount. Under the latter arrangement, which has been adopted in 35 jurisdictions, the maximum is adjusted automatically in accordance with the weekly wages of covered employees.

Thirteen states provide additional allowances for certain dependents. They all include children younger than age 18 (and, generally, older children who are incapacitated or full-time students); seven states include a nonworking spouse; and one state considers other dependent relatives. The weekly amount allowed per dependent varies considerably by state, but there are some commonalities. For instance, the allowance is ordinarily a fixed sum, and all states have a limit on the total dependents' allowances payable in any week in terms of dollar amount; number of dependents; and payments as a percentage of basic benefits, high-quarter wages, or average weekly wage. For some individuals, this limitation reduces the allowance per dependent or the maximum number of dependents on whose behalf allowances may be paid.

All but nine states require a waiting period of 1 week of total unemployment before benefits can begin. Four states have provisions making the waiting period compensable after a specified period.

Except for eight jurisdictions, states provide a statutory maximum duration of 26 weeks of benefits in a benefit year. However, many jurisdictions vary the duration of benefits through various formulas. In some instances, the duration of benefits is tied to the state's trust fund balance or its unemployment insurance rate.

Extended Benefits

In 1970, a permanent federal-state program of Extended Benefits was established for workers who exhaust their entitlement to regular state benefits during periods of high unemployment. The program is financed equally from federal and state funds. Employment conditions in an individual state trigger Extended Benefits. This happens when the unemployment rate among insured workers in a state averages 5 percent or more over a 13-week period and is at least 120 percent of the rate for the same period in the 2 preceding years. If the insured unemployment rate reaches 6 percent, a state may, by state law, disregard the 120 percent requirement in initiating Extended Benefits. Once triggered, Extended Benefit provisions remain in effect for at least 13 weeks. When a state's benefit period ends, Extended Benefits to individual workers also end, even if they have received less than their potential entitlement and are still unemployed. Further, once a state's benefit period ends, another statewide period cannot begin for at least 13 weeks.

State law determines most eligibility conditions for Extended Benefits and the weekly benefit payable. However, under federal law a claimant must have had 20 weeks in full-time employment (or the equivalent in insured wages) and must meet special work requirements. A worker who has exhausted his or her regular benefits is eligible for a 50 percent increase in duration of benefits for a maximum of 13 weeks of Extended Benefits. There is, however, an overall maximum of 39 weeks of regular and Extended Benefits. Extended Benefits are payable at the same rate as the weekly amount under the regular state program.

Before the 1992 legislation, the Extended Benefits program was based on the insured unemployment rate (IUR)—the number of unemployed workers receiving benefits in a state as a percentage of the number of persons in employment that is covered by unemployment insurance in that state. By definition, the IUR does not include workers who have exhausted their benefits but are still unemployed.

The 1992 legislation (Public Law 102-318) provided states with the option of adopting an additional formula for triggering the permanent Extended Benefits program. Effective March 1993, states had the option of amending their laws to use alternative total unemployment rate triggers, in addition to the current insured unemployment rate triggers. Under this option, Extended Benefits would be paid when (1) the state's seasonally adjusted total unemployment rate for the most recent 3 months is at least 6.5 percent and (2) that rate is at least 110 percent of the state average total unemployment rate in the corresponding 3-month period in either of the 2 preceding years.

States triggering on to the Extended Benefits program under other triggers would provide the regular 26 weeks of unemployment benefits in addition to 13 weeks of Extended Benefits (which is the same number of weeks of benefits provided previously). In addition, states that have chosen the total unemployment rate option will also amend their state laws to add an additional 7 weeks of Extended Benefits (for a total of 20 weeks) when the total unemployment rate is at least 8 percent and is 110 percent of the state's total unemployment rate for the same 3 months in either of the 2 preceding years. As of December 31, 2016, Extended Benefits were not payable in any states.

In addition to the permanent Extended Benefits program, Congress from time to time enacts temporary extensions of unemployment compensation benefits. The most recent example is Emergency Unemployment Compensation (EUC08). The EUC08 program was created on June 30, 2008, by the Supplemental Appropriations Act of 2008 (Public Law 110-252), and expired on January 1, 2014.

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