

### Severance Pay and Unemployment Benefits

**Definition:** Severance benefits are payments made to employees upon the termination of employment. The amount of benefits is usually based on the employee's length of employment.

It is important to note that there is no requirement in the **Fair Labor Standards Act (FLSA)** for severance pay. Severance pay is a matter of agreement between an employer and an employee (or the employee's representative). The employer has no legal obligation to give severance pay to a departing employee.

Employers may choose to pay severance benefits under a number of circumstances, including workforce reductions, plant closings, mergers and acquisitions, or incentives for early retirement programs. Severance benefits may include salary and health benefit continuation, outplacement counseling, accelerated vesting of stock options or rights to purchase stock, bonus payments, and forgiveness of loans.

#### What do I need to share with TALX?

Share the total amount of severance provided to the individual, whether this was paid in a lump sum or over a period of time, the time period for which the severance pay covers if applicable, the date(s) paid. (See attached copy of TALX's separation spreadsheet for reporting purposes.)

If severance pay was given, the states ask the employer and claimant both to

provide this information. If you do not give this information to TALX, a response will not be provided to the state, and the state will adjudicate the claim based on the information provided by the claimant only.

#### Allocation of Severance Pay by the Employer.

If an employer makes a **lump sum** severance payment to a terminated worker at the time the worker is separated from employment, the employer may allocate that severance payment to one week or several weeks.

The claimant's unemployment benefits may be reduced in some states as a result of severance pay allocated to a specific week. If considered disqualifying, the impact of severance on unemployment benefits will vary by state.

If an employer makes severance payments over a period of time, this is called **allocated** severance payments.

#### What are the specific states rules regarding severance pay offered to employees who later file for unemployment?

Attached is a spreadsheet (titled Severance Information by State) that lists the severance information for each state. In some states, the type of payment will determine whether or not the amount would be deducted from unemployment benefits.