

Chapter 192-190 WAC

DEDUCTIONS FROM UNEMPLOYMENT BENEFITS

WAC

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WAC 192-190-010 Income tax withholding. (1) You may request to have federal income tax withheld from your benefits. If you choose to do so, the department will deduct the withholding at the percentage specified in 26 U.S.C. Section 3402 (p)(2). You may cancel this withholding at any time.

(2) Benefits deducted for income tax purposes are considered paid to you. If you are paid benefits to which you are not entitled, the amount withheld for income tax will be included in the overpayment.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-010, filed 5/12/10, effective 6/12/10.]

WAC 192-190-015 Deductions for child support—RCW 50.40.050. (1) After being properly notified by a child support agency, the department will withhold a portion of your benefits to send to the agency to satisfy child support obligations.

(2) **Notification.** The child support agency is responsible for notifying you of the order to deduct child support from your unemployment benefits.

(3) **Overpayments.** Benefits deducted to satisfy child support obligations are considered paid to you. If you receive benefits to which you are not entitled, the amount deducted to satisfy child support obligations will be included in the overpayment.

(4) **Benefits withheld in error.** The child support agency is responsible for reimbursing you if the amount deducted from your benefits is greater than you are required to pay to satisfy your child support obligations. If an amount less than you are required to pay is deducted from your benefits, the department will deduct the additional amount from future benefit weeks.

(5) Appeals.

(a) You must file your appeal concerning the validity of the child support order, the total amount due, or the amount to

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be deducted from your benefits, with the child support agency.

(b) You may file your appeal concerning the department's authority to deduct child support from your benefits, the weeks for which the deduction is made, and the accuracy of the amount deducted with the department in the same manner as eligibility decisions are appealed. You may file your appeal based on the department's notice to you that child support obligations have been or will be deducted from your benefits. All laws and rules pertaining to benefit appeals apply to appeals under this subsection.

(6) **Effective date of deduction.** The department will not deduct child support obligations from benefits paid for weeks prior to the date on which notification is served on you by the child support agency.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-015, filed 5/12/10, effective 6/12/10.]

WAC 192-190-020 Are lump sum retirement payments deductible from my benefits (RCW 50.04.323)? Lump sum retirement benefits are deductible from benefits as provided in this section.

(1) Lump sum retirement payments are prorated over the individual's life expectancy as determined by Title I in Regulation 1.72-9 of the Internal Revenue Code. The percentage contributed by the employer to the retirement will be prorated over the individual's life expectancy to determine the amount deducted from benefits.

(2) After a job separation, the withdrawal of only the funds and applicable interest contributed by the individual to a retirement pension is not deductible from benefits.

(3) The transfer or rollover of a lump sum retirement payment within sixty days of receipt to another long-term retirement plan, such as an individual retirement account (IRA), or 401K is not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-020, filed 5/12/10, effective 6/12/10.]

WAC 192-190-025 How is the pension deduction calculated? (1) The share contributed by the employer to the pension is deductible from benefits. The amount of the deduction equals the percentage of the contribution(s) made by the base year employer as of the last pay period in the base year in which the contribution(s) was made. The department will prorate the employer's share to a weekly amount.

(a) The department will presume the services you provided to the employer in the base year affected eligibility for or increased the pension amount unless you provide verification from the employer or the pension fund administrator showing otherwise.

(b) The department will presume you made no contribution to the pension unless you provide evidence satisfactory to the department that such a contribution was made.

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(2) A disability pension based entirely on the percentage of disability is not deductible. For example, disability payments paid by the Veterans Administration (VA) based on extent of injury are not deductible.

(3) Retirement benefits paid by the Social Security Administration are not deductible from benefits.

(4) For purposes of this section, "pension" includes retirement benefits or retired pay, annuity, or other similar periodic payment.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-025, filed 5/12/10, effective 6/12/10.]

WAC 192-190-030 Is reimbursement of expenses deductible from my benefits? (1) Moneys paid to you as reimbursement for expenses are not deductible from benefits. However, there must be a reasonable relationship between the amount paid and the actual expenses incurred. If the amount paid is greater than actual expenses, the entire amount must be reported to the department as remuneration and may be deducted from your weekly benefit amount.

(2) Examples:

(a) A volunteer firefighter is paid twenty-five dollars for each fire call. The amount is considered reimbursement for the costs associated with responding to the fire call, such as travel expenses. You are not required to report the reimbursement to the department when filing your claim.

(b) A volunteer firefighter is paid fifty dollars per week even if he or she has no fire calls during that week. The amount is considered remuneration because there is no relationship between the payment and the costs associated with service as a firefighter. You must report the payments to the department when filing your claim.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-030, filed 5/12/10, effective 6/12/10.]

WAC 192-190-035 Vacation or holiday pay. (1) You must report vacation and holiday pay when filing your claim for benefits.

(2) If vacation or holiday pay is assigned to a specific time period by your employer or as part of a collective bargaining agreement, the department will deduct it from your benefits.

(3) If you receive a cash out of accrued vacation leave, it is not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-035, filed 5/12/10, effective 6/12/10.]

WAC 192-190-040 Back pay and settlements. (1) "Back pay" means wages paid to a worker for a prior pay period. An employer may award back pay to a separated or suspended employee for a specific period of time.

If you received benefits for any weeks for which back pay is awarded, you must report the amount of the back pay to the department.

(a) If the employer does not deduct the amount owed before giving you the award, you will receive an overpayment notice and must pay the amount owed to the department.

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(b) If the employer deducts the amount of benefits owed before giving you the back pay award, the employer must pay the amount owed to the department.

(2) A back pay award may not be used to purge a disqualifying separation.

A lump sum payment of worker's compensation benefits does not constitute a back pay award for purposes of RCW 50.20.160.

(3) A "settlement" is the resolution of a dispute or lawsuit under specific terms, often financial. The department will treat a settlement due to loss of wages the same as a back pay award.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-040, filed 5/12/10, effective 6/12/10.]

WAC 192-190-045 Severance pay. When payment for your separation from work is assigned to any period before the date of separation, it is considered severance pay. Severance pay is not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-045, filed 5/12/10, effective 6/12/10.]

WAC 192-190-050 Termination pay. (1) Termination pay is the same as earnings and is deductible from benefits. It means payments that are assigned to and have a connection with the period following the last day you worked but before you are separated from employment. The payments may be connected to a specific period of time by collective bargaining agreement, individual contract or hiring agreement, customary trade practice, or your request.

(2) Your employer may place conditions for receiving payments, such as requiring that you be available for work during the payment period as needed or stopping payment before the payment period ends if you get another job.

Example 1: The employer provides a job security plan which pays full salary and benefits for five months after the layoff date. The employees are on-call to work as needed for the employer. These payments are deductible because the payments are conditioned on your agreement to remain on-call.

Example 2: An employment contract provides for payments for up to two years following layoff, based on years of service. Fringe benefits continue during the period and accrued vacation time may be used to extend the length of the payments. Payments are deductible because there is a clear connection between the payments and the time period following the last day of work based on the continuation of fringe benefits such as vacation leave.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-050, filed 5/12/10, effective 6/12/10.]

WAC 192-190-055 Payment in lieu of notice. (1) If you have a contract or hiring agreement that requires the employer to give you advance notice of termination, and the employer fails to do so, the payments you receive from the employer for wages or salary you would have earned during the notice period are deductible from benefits.

(2) If you give notice to the employer to quit work, and the employer discharges you before the end of the notice

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period, any wages paid to you through the end of the notice period are deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-055, filed 5/12/10, effective 6/12/10.]

WAC 192-190-060 Bonuses. (1) If a bonus is attributable to work you performed during a week in which you claimed benefits, the amount paid is deductible from benefits.

Example: You work twenty hours a week and receive partial unemployment benefits. Based on productivity for that week, your employer awards a fifty dollar cash bonus to workers. The fifty dollars is deductible from benefits.

(2) If a bonus is not attributable to work you performed during a week claimed, it is not deductible from benefits.

Example: You work eight months for an employer and are then laid off. At the end of the year, your employer pays each worker a bonus of one hundred dollars for each month worked during the calendar year. You receive eight hundred dollars based on your eight months of work. Because the bonus is attributable to work performed before you separated from your job, it is not deductible from benefits.

(3) A bonus includes, but is not limited to, cash payments and other things of value that are over and above the employment contract or hiring agreement.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-060, filed 5/12/10, effective 6/12/10.]

WAC 192-190-065 Tips. Tips are considered earnings and must be reported each week you claim benefits. They are deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-065, filed 5/12/10, effective 6/12/10.]

WAC 192-190-070 Jury duty—RCW 50.20.117. (1) Payment received because you are on-call or reporting as a prospective juror, or serving on a jury, is earnings and deductible from benefits.

(2) Payment received as reimbursement of expenses for travel, meals, and other costs associated with jury duty is not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-070, filed 5/12/10, effective 6/12/10.]

WAC 192-190-075 Sick leave pay. (1) You must report sick leave pay when filing your claim for benefits.

(a) If sick leave pay is assigned to a specific time period by your employer or as part of a collective bargaining agreement, it is deductible from benefits.

(b) If you receive a cash out of accrued sick leave, it is not deductible from benefits.

(2) If your benefits are reduced because you reported sick leave pay, they will not be further reduced because you were not able to work on the day(s) for which you were on paid sick leave.

Example: You are sick for three days during a week. You receive sick leave pay for two of those days. Your benefits will be reduced for those two days by the amount of sick leave paid to you. Your benefits will be reduced by one-seventh under RCW 50.20.130 for the third day because you were not able to work.

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[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-075, filed 5/12/10, effective 6/12/10.]

WAC 192-190-080 Disability payments. (1) Disability payments paid to you by an insurance company based on premiums paid by the employer are not earnings and are not deductible from benefits.

(2) Disability payments paid to you from a trust fund paid solely by the employer's contributions are earnings and are deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-080, filed 5/12/10, effective 6/12/10.]

WAC 192-190-085 Work study. (1) The Higher Education Act (Public Law 102-325, Title IV) prohibits the deduction of federal financial aid, including work study, from benefits. If the financial aid award includes both federal and state moneys, it is not deductible from benefits.

(2) Earnings from work programs that require services in exchange for student financial aid are deductible from benefits unless Title IV funds are included in the award.

(3) Federally subsidized programs, such as the Workforce Investment Act, do not include Title IV funds. Students provide services to an employer who reports income for tax purposes. These earnings are deductible from benefits.

(4) Other forms of financial aid, such as grants or loans, which do not require the performance of services, are not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-085, filed 5/12/10, effective 6/12/10.]

WAC 192-190-090 National Guard pay. You must report earnings if you are in the National Guard or military reserve and are on active duty more than seventy-two consecutive hours. Earnings for active duty that exceeds seventy-two consecutive hours are deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-090, filed 5/12/10, effective 6/12/10.]

WAC 192-190-100 AmeriCorps stipends. (1) Stipends received for participation as an AmeriCorps volunteer are considered payment for services and are deductible from benefits. Moneys received for education-related expenses, such as tuition and books, are not deductible from benefits.

(2) If you work a part-time job, your earnings from the part-time job are deductible from benefits. See also WAC 192-170-100.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 10-11-046, § 192-190-100, filed 5/12/10, effective 6/12/10.]