

Looking for a Way to Save on Severance Costs? Why Not Consider a SUB Plan?

US employers who pay severance benefits may realize substantial savings by structuring their severance payments under a Supplemental Unemployment Benefit (SUB) plan.

A SUB plan provides benefits similar to a traditional severance plan. Unlike traditional severance payments, benefits under a SUB plan are tied to the former employee's receipt of state unemployment insurance (SUI) benefits and, generally, do not reduce the former employee's SUI benefits compared to traditional severance plan benefits, which generally reduce the former employee's SUI benefits. An added benefit is that SUB plan payments are exempt from FICA and FUTA taxes.

SUB Plan vs. Severance Plan

For example, an employer terminates an employee and the employer's severance plan provides a severance benefit of \$1,000 per week to a terminated employee, which is equal to the former employee's weekly salary prior to termination of employment. The terminated employee files for SUI benefits, which are \$500 per week. In many states, if a traditional severance plan is used, the employee's \$500 per week SUI benefit will be reduced by the amount of severance benefits received. Thus, the employee might not receive any SUI benefit during the weeks he or she receives severance. If the same employer used a SUB plan instead of severance, the employer's SUB plan typically would provide a payment of \$500, which makes up for the gap between the \$1,000 traditional severance and the \$500 of SUI. The charts below show how both the employee and employer benefit over a one-month period.

Employee Take Home Comparison (Not Factoring in Any Income Taxes)

Severance Plan	
\$1,000 x 4 weeks	\$4,000
FICA taxes 7.65%	(\$306)
Total benefit	\$3,694

SUB Plan	
\$500 SUI benefit x 4 weeks	\$2,000
\$500 SUB plan x 4 weeks	\$2,000
FICA taxes	\$0
Total benefit	\$4,000

Employer Spend Impact

Severance Plan	
\$1,000 x 4 weeks	\$4,000
FICA taxes 7.65%	\$306
FUTA, SUTA (2.7%)	\$108
Employer spend	\$4,414

SUB Plan	
\$500 SUB benefit x 4 weeks	\$2,000
FICA taxes (7.65%)	\$0
FUTA, SUTA (2.7%)	\$0
Employer spend	\$2,000

In this example, the former employee would have \$306 extra in take-home pay each month and the employer would save \$2,414 over a traditional severance plan. Multiplying these benefits by a larger number of employees can result in a significant savings for the employer and an easy communication to employees that are accustomed to traditional severance benefits.

SUB Plan Requirements and Implementation Steps

There are a number of requirements and steps that must be taken in order to implement a SUB plan. Initially, there must be a SUB plan document that meets the following requirements:

- A description of the eligibility requirements for participation in the plan, including the requirement that employees must be eligible and register for SUI benefits.
- The method of benefit payment must be paid on a periodic basis and must not exceed the employee's pre-termination wages. Lump sum payments are not permitted.
- A description of when SUB payments must stop, generally when the individual is no longer eligible for SUI benefits.
- Depending on the state, the SUB plan benefit might be required to be paid from a trust, which would raise additional requirements, including a tax filing to ensure the trust is exempt from federal income tax.
- A summary plan description will need to be prepared, as the SUB plan is an ERISA plan.

Before preparing the SUB plan document, an adviser should review the current severance plan and the states in which employees will be applying for SUI benefits in order to ensure that any releases are enforceable and to determine the impact of SUB plan payments on SUI benefits.

To learn more about how we can assist in the design and implementation of a SUB plan, please contact us.

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