

LABOR & EMPLOYMENT

>>ALERT

SEVERANCE PAY MAY LIMIT UNEMPLOYMENT BENEFITS AFTER CHANGE IN NEW YORK LAW

Effective January 2014, unemployment insurance benefits generally will not be paid to a claimant for any week during which he or she receives severance pay.

If the severance payment is made in a lump sum, it will be allocated over the post-termination period based on the claimant's former salary. However, the new law regarding severance pay's effect on unemployment benefits

specifically does not apply if the initial severance payment is made more than 30 days following the claimant's termination date.

These changes are applicable to any "dismissal pay," which is defined as "one or more payments made by an employer to an employee due to his or her separation from service of the employer regardless of whether the employer is legally bound by contract,

statute or otherwise to make such payments." Dismissal pay does not include post-termination payments for pension, retirement, accrued leave such as vacation or PTO, health insurance, and payments for supplemental unemployment benefits.

THE BOTTOM LINE

Employers may be able to assist employees by delaying severance pay by 30 days, if administratively feasible. Otherwise, employees will have to wait until the completion of any severance pay in excess of the maximum weekly unemployment insurance benefits before they will be eligible to receive these benefits.

FOR MORE INFORMATION

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