

HR Insights

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Military Differential Pay

As specified by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), civilian jobs and benefits are protected for those called to active duty. Under this legislation, employers are not required to pay employees who are called to active duty with the Army Reserve or to the National Guard.

Many employers do choose to offer military differential pay or may even continue to pay an employee's full salary while on military leave. Employers may do so out of patriotism or as a way to ease the financial stress of employees and their families. Regardless, providing military differential pay is a great recruitment and retention strategy. Military employees are likely to be extremely loyal to your organization upon their return if they are being financially compensated while deployed.

Military Differential Pay Options

There are various options in offering military differential pay. Choose the one that works best for your organization:

- Offering pay for a limited time (for example, one year)
- Offering pay for the full period of deployment
- Paying the difference between civilian and military pay (generally for private-sector employees)
- Paying the difference between a civilian salary and total military income, which includes pay and allowances for housing, food, clothing, family separation costs and hazardous duty (generally for public sector employees)

Your state's laws will also play a role in how your military differential pay program works. Some states have military pay requirements for certain employers. Under USERRA, military service employees can use accrued vacation and personal time as pay during their leave. However, employees cannot use sick time, unless their employer allows all employees to use sick pay for absences other than illness.

Military differential pay is only applicable when civilian pay is higher than military pay, typically for those with professional and technical careers. Those in lower-paid positions typically make more from military pay than their civilian jobs. Military differential pay will also depend upon the military pay grade of the individual, as pay varies widely by rank.

Tax Considerations

Military differential pay is considered to be taxable wages. A person who receives military differential pay must report this as wages on their federal income tax return. Since 2009, military differential pay has been includible as wages for income tax purposes on Form W-2, but is excludable from Social Security and Medicare taxes (FICA) and federal unemployment taxes (FUTA). Employers should report military differential pay as wages in box 1 of Form W-2. These amounts are subject to withholding from income tax.



HR professionals can assist their active duty employees in dealing with these issues by outlining them before they go on leave. It is also important for companies to have written military differential pay policies in place before any employees are called to duty, so that expectations are clear.