

Answer: No. Section 4002(a)(3) of Public Law 108–11 is clear in its definition of an “air carrier” for purposes of TEUC-A. Therefore, if the reduction in business is not due to reduction in service by a certified air carrier, the employment does not meet the definition of “qualifying employment.”

q. Question: The TSA announced that later this year it will cut 11% of the security screeners at the nation’s airports. Does this employment at airports with the TSA constitute “qualifying employment” for TEUC-A purposes?

Answer: No. These layoffs are not due to a qualifying reason for separation, *i.e.*, layoffs due to a reduction in service by the certified air carrier due to the September 11, 2001, terrorist actions or security measures taken in response thereto; closure of an airport for that reason; or the military conflict with Iraq.

r. Question: The meaning of the term “qualifying employment” includes “employment at a facility at an airport.” What is an airport?

Answer: Title 49, Section 40102(g) of the United States Code defines “airport” as “a landing area used regularly by aircraft for receiving or discharging passengers or cargo.”

7. Determining if the Separation Is a Qualifying Separation

a. Question: The claimant worked in employment with a supplier of services utilized by a certified air carrier and was disqualified for a voluntary quit at the time the benefit year was established. On appeal, the determination was reversed because the employer failed to appear and the claimant maintained that the separation was due to a lay-off for lack of work. The claimant has now filed for TEUC-A and the employer has responded to the TEUC-A request for information stating that the claimant was not separated for a qualifying reason. How is this determination handled?

Answer: Determining whether or not the claimant’s separation was for a qualifying reason for TEUC-A purposes is not the issue that was previously determined. Here, the appellate body found that the lay-off was for lack of work. The state need only determine for TEUC-A qualifying purposes if the lack of work was for a qualifying reason. A determination that the claimant was not laid off for one of the TEUC-A qualifying reasons does not contradict the appellate decision.

b. Question: States are required to determine if the claimant is an “eligible individual” for TEUC-A purposes. Making this determination involves determining if the claimant’s base period employment used in the monetary determination for regular benefits meets the definition of “qualifying employment” which includes a determination of whether or not the claimant was separated for a qualifying reason. What section of law does the state cite in its nonmonetary determination and where are these determinations reported on the TEUC ETA 207?

Answer: The state should cite Section 4002(a) of Public Law 108–11. The nonmonetary determination is reportable as “Miscellaneous” in column 17, line 202 of the ETA 207 TEUC report. (See Items 14.c. and d.)

c. Question: Information provided by the employer indicates that the employment is “qualifying employment,” but the state has reason to doubt the accuracy of this information. Is the state required to accept the employer’s statement?

Answer: No. However, the state must have credible information to refute the employer’s assertion and to support a determination of TEUC-A ineligibility.

d. Question: State National Guard and Air National Guard members were activated by the state and deployed to guard the airports. Does their deactivation constitute a “qualifying separation” for TEUC-A purposes?

Answer: No. The deactivation of the State National Guard and Air National Guard was not due to a qualifying reason for separation, *i.e.*, layoffs due to a reduction in service by the certified air carrier due to the September 11 terrorist actions or security measures taken in response thereto; closure of an airport for the same reason(s); or the military conflict with Iraq.

e. Question: State National Guard and Air National Guard members were activated and deployed by the federal government during the military conflict with Iraq. Does their deactivation constitute a qualifying separation for TEUC-A purposes?

Answer: No. The federal government cannot be construed as a certified air carrier, a facility at an airport, or a supplier to a certified air carrier. Nor is the federal government a “firm.” These are the terms used in the TEUC-A provisions to describe the employer or type of employment that potentially constitute “qualifying employment.” Because military service to the government is not potentially “qualifying employment,” the reason for separation is not a potentially qualifying separation.

f. Question: Military reservists were activated and deployed due to the military conflict with Iraq. When they are unable to return to their previous employment with an air carrier, employment at a facility at an airport, or with an upstream producer or supplier for an air carrier for one of the qualifying reasons for separation, are they considered to be separated from “qualifying employment” for TEUC-A purposes?

Answer: Yes. Such reservists’ inability to return to their prior employer/employment for a reason that satisfies the requirements of Section 4002(a)(2)(A) of P.L. 108–11, constitutes a “qualifying separation” from that employer. If that employment was used in the determination of eligibility for regular benefits, it constitutes “qualifying employment” for TEUC-A purposes.

g. Question: Would individuals who worked as travel agents or reservation agents who in whole or in part book passengers for certified air carrier flights be considered as “suppliers” or employees of “suppliers” for TEUC-A purposes?

Answer: Yes. Travel and reservation agents/agencies perform written or implied contract services for certified air carriers by booking passengers’ flights. If travel agents did not book the certified air carrier’s flights, the certified air carriers themselves would be required to book the flights. Thus, these agents supply services to certified air

carriers. If their separation is for a qualifying reason, they have “qualifying employment.”

8. Adjudication of Issues Arising Subsequent to “Qualifying Employment”

a. Question: An “eligible individual” has had subsequent employment since the “qualifying employment” and is terminated from the subsequent employment for a disqualifying reason. Does this affect the individual’s eligibility for TEUC-A?

Answer: Maybe. When an individual has been determined to be an “eligible individual” for TEUC-A purposes, that determination only means that the individual is entitled to a monetary determination using the formula that applies to TEUC-A. To receive TEUC-A benefits, the individual must still meet all other eligibility requirements. Therefore, if the claimant has been disqualified, no TEUC-A is payable until the claimant has been requalified.

9. Interstate Benefits/Combined Wage/ICON Applications

a. Question: How will “eligible individuals” be identified by the paying state if potentially “qualifying employment” on a combined-wage claim is from a transferring state?

Answer: If the claimant responds to a notice of potential eligibility to TEUC-A, the request for information will be sent directly to the employer in the other state. If the employer is an obvious “large employer” (such as a certified air carrier) that may have already provided the transferring state with information about the claimant, the paying state may instead arrange to check with the transferring state.

b. Question: A claimant has employment in more than one state and has base period employment that would satisfy the definition of “qualifying employment.” However, it was not used in the monetary determination of the regular claim because the claimant was eligible for the maximum benefit amount payable under the liable state’s law without filing a combined wage claim (CWC). Does this claimant have “qualifying employment” for TEUC-A purposes?

Answer: Under the TEUC-A law, an “eligible individual” is one whose eligibility for TEUC “is or would be based on the exhaustion of regular compensation under state law, entitlement to which was based in whole or in part on qualifying employment performed during such individual’s base period.” The language “would be” permits consideration of employment, for purposes of determining qualifying employment, that the individual chose to exclude from base period employment under a CWC.

10. TEUC-A Eligibility for Individual Filing From Canada

a. Question: May individuals filing from Canada qualify for TEUC-A?

Answer: Yes, if they meet the definition of an “eligible individual.”

11. TEUC-A Effect on Trade Readjustment Assistance (TRA)

a. Question: Original TEUC benefits were deducted from claimants’ “basic” TRA entitlement. Is TEUC-A also deductible from TRA entitlement?