

Rule Caption: Definition of the Minimum Hourly Wage for the purposes of Unemployment Insurance

Purpose: The department is promulgating this rule to implement Senate Bill 1532, Oregon's Minimum Wage Law passed during the 2016 Legislative Session.

Please note only matter in **boldfaced** type in is new.

Oregon Administrative Rule 471-030-0017

Defining and Allocating Remuneration, Holidays, and Vacations

(1) Definitions. For purposes of applying ORS 657.100 and 657.150, and as used in this rule:

(a) "Employment" means:

(A) Being in an employer-employee relationship during a period of time for which remuneration was paid or payable; or

(B) Providing a service or product for cash or cash value.

(b) "Earnings" means remuneration;

(c) Where an employer-employee relationship exists, "remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips;

(d) Where no employer-employee relationship exists, "remuneration" means the gross amount of compensation for the product or service, less only the value of tangible components involved in producing or providing the product or service and limited to the tangible components that remain with the party receiving the service or product;

(e) "Bonus" means an extra payment given by an employer in consideration of performance, production or a share of profits;

(f) "Back pay" means payment awarded as reimbursement by an employer for loss of wages during a period for which no services were performed and no payment was intended;

(g) For purposes of ORS 657.150(7), the term "holiday" means those holidays listed in 187.010(1)(b)-(j) and (2), 187.020 and any holiday designated by the employer, union contract or otherwise;

(h) For purposes of ORS 657.150(7), the term "vacation" means a specific period of time, paid or unpaid, during which the individual is freed from work/job/employment duties and responsibilities and is free to use the time away from work for any purpose the individual chooses.

**(i) For purposes of ORS 657.150(6)(a), the term "minimum hourly wage" means the minimum wage rate as computed under 653.025(2).**

(2) For purposes of section (1) of this rule, except for agricultural labor and domestic service, remuneration shall include the value, determined pursuant to OAR 471-031-0055(3), of compensation paid in any medium other than cash.

(3) Allocating Remuneration: For purposes of ORS 657.100 and 657.150(6) remuneration or an applicable pro-rata share thereof shall be allocated as follows:

(a) In the case of services, allocated to the week in which the service was performed;

(b) In the case of products, allocated to the week in which the product was sold;

(c) In the case of bonuses, allocated equally to the weeks during which the individual worked within the period being rewarded;

(d) If the dates of sale or service are not clearly established, allocation shall be made upon a reasonable estimate provided by the claimant. If the individual cannot or will not provide a reasonable estimate, the remuneration shall be allocated equally over the period during which services were rendered or products were sold.

(4) Back pay is not reportable for or deductible from unemployment insurance benefits.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657.100 & 657.150

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing rule to be omitted. New sections are in boldfaced type.