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CHAPTER 471

EMPLOYMENT DEPARTMENT

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AMEND: 471-030-0017

RULE TITLE: Defining and Allocating Remuneration, Holidays, and Vacations

NOTICE FILED DATE: 09/20/2022

RULE SUMMARY: OAR 471-030-0017 Defining and Allocating Remuneration, Holidays, and Vacations

RULE TEXT:

(1) The effective date of this rule is June 23, 2021.

(2) 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)-(k) 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).

(3) 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.

(4) Allocating Remuneration: For purposes of ORS 657.100 and 657.150(6) remuneration or an applicable prorate 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 individual. 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.

(5) Back pay is reportable for and deductible from unemployment insurance benefits, and shall be allocated as follows:

(a) When awarded after the end of a shutdown due to a lapse in federal appropriations, allocated equally to the weeks in which the shutdown occurred;

(b) When awarded in all other circumstances, allocated to the week in which it is paid.

STATUTORY/OTHER AUTHORITY: ORS 657.610, ORS 657.100, 183.335(5)

STATUTES/OTHER IMPLEMENTED: ORS 657.100, 657.150