



Restaurant & Bar Industry

Below is general information on certain types of employment and compensation in the restaurant and bar industry.

Trial Periods

Individuals hired on a probationary basis are employees and their compensation is taxable regardless of their employment status and length of time on the job.

Casual Labor

Individuals hired and compensated on a temporary basis are employees and their compensation for services is taxable wages. If individuals perform services that do not promote or advance trade or business of the employer and the total payroll is less than \$1,000 in any quarter, the compensation for these services is not taxable wages.

Independent Contractor

Individuals who meet the Oregon statutory definition of an independent contractor are not employees. The law lists standards that must be met. If individuals who perform services do not meet all standards, they are employees and their compensation is taxable wages. Refer to the Employment Department informational flyer on Independent Contractors (UI PUB 201 before 2006, UI PUB 201a after 2005) for specific requirements.

Service By Family Members

Based on the type of employing entity and family relationship listed below, some family members' wages are not taxable.

Sole Proprietorship - The owner's parents, spouse, and children under the age of 18 are not considered employees and their wages are not taxable.

Partnership - There is no familial relationship with a partnership. Therefore, only the partners are not reported. All other employees are to be reported.

Corporation, General - Individuals who perform services for a corporation, including corporate officers and family members, are employees of the corporation and their wages are taxable.

Closely Held Family Corporations - Corporations may elect to not pay unemployment taxes on corporate officers who are directors, have a substantial ownership interest, and are members of the same family. The election must be in writing and will be effective the first day of the calendar quarter in which the request is submitted. All other employees remain subject, however. For more details, please refer to the Employment Department informational flyer (UI PUB 208) on Corporations and Limited Liability Companies.

Banquets And Catering

Individuals who are hired for banquets and catering services, and are not qualified independent contractors or excluded by virtue of being opted out corporate officers in a family held corporation, are employees and the compensation for these services is taxable wages. This also applies to regular or part-time employees who may perform these services.

Musicians

Musicians are employees of the person or organization engaging their services and compensation to them is taxable wages unless the musicians are hired under a proper written contract. The contract must expressly designate one or more of the musicians as responsible for the filing of wage reports and the payment of taxes.

The contract should cover the entire time of the musicians' engagement. A new contract is needed for every new engagement even if it's for the same musicians.

Please see [Musicians](#) for more information on the tax treatment of musicians.

Dancers

Dancers are employees of the person or organization engaging their services and their compensation is taxable wages. Rarely do dancers qualify as independent contractors.

Miscellaneous Entertainment

Disc jockeys, comedians, musicians, and other entertainers who do not qualify as independent contractors are employees of the person or organization engaging their services and their compensation is taxable wages.

Cash Payments

Paying cash for services is treated the same as paying by check. These payments to employees are taxable wages. Payroll records and quarterly reports of these payments are required.

Bonuses And Prizes

Bonuses and prizes from an employer to an employee as a reward or added compensation for services rendered are taxable wages.

Tips

Tips reported by employees to their employers per section 3306 of the Internal Revenue Code are taxable wages. Every employee who receives \$20 or more in tips per month in the course of employment must furnish a written monthly report of such tips to their employer. If tips are not reported in this manner, they are not taxable wages, and can not be used for an unemployment insurance benefit claim.

Lodging And Meals

The actual cash value of lodging and meals provided to employees as part of their pay is taxable wages even if these benefits are provided for the convenience of the employer. The Employment Department's established minimum value for board is 30% of the standard CONUS (CONTinental United States) meal rate per day. The rates are available at www.gsa.gov under Per Diem Rates. The rate per day will be rounded to the nearest dollar. The rate per month will be 30 times the rounded daily rate. Room will be valued at FMV (Fair Market Value).

Vacation, Holiday, And Sick Pay

Vacation and holiday pay to employees are taxable wages. Sick pay is taxable wages unless the sick payments are made under workers' compensation law.

Questions

If you have questions or need additional information, please contact the Employment Department tax representative in your area or call 503-947-1488; TDD/Nonvoice Users 711 or by email at taxinfo@emp.state.or.us. You may also visit our web site at www.Oregon.gov/employ/tax

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