



Chapter 238 Tier One/Tier Two and OPSRP Pension Program Payment Categories

This chart is provided to assist employers in identifying types of payments that are considered subject salary for Chapter 238 Tier One/Tier Two and OPSRP Pension program members. Subject salary is used to determine member IAP account contributions, employer contributions and, with some exceptions, to determine the “final average salary” (FAS) factor used in Tier One/Tier Two benefit and OPSRP Pension benefit calculations. This chart is a guide and is NOT ALL-INCLUSIVE.

Payment Type	Description	Ch. 238 Tier One/Tier Two members (ORS 238)	OPSRP Pension Program members (ORS 238A)	Report this payment in the EDX DTL2 record field:
	<i>(Determine whether payment fits general description)</i>	<i>This type of payment is:</i>	<i>This type of payment is:</i>	
Accrued compensatory time	A lump-sum payoff of compensatory time. Compensatory time is paid leave accrued for unpaid time worked above and beyond an employee’s regular hours.	Subject	Non-subject	Lump-sum Payoff
Accrued sick leave	A lump-sum payoff of accrued sick leave.	Non-subject	Non-subject	Non-Subject Salary
Accrued vacation leave	A lump-sum payoff of accrued vacation leave. Includes any portion of accrued personal time off (PTO) the employer identifies as vacation leave.	Subject	Non-subject	Lump-Sum Vacation Payoff
Accrued paid leave (other)	A lump-sum payoff of any paid leave other than accrued comp time, sick leave, or vacation leave.	Subject	Non-subject	Lump-sum Payoff
Advance against future wages	Compensation for work not yet performed.	Non-subject	Non-subject	Non-Subject Salary
Allowances, non-taxable	Allowances, excluded from taxable income — includes remuneration in the form of living quarters, lodging, board, or other items of value. See also Expenses .	Subject	Non-subject	Lump-Sum Payoff
Allowance, taxable	Allowances included in taxable income — includes remuneration in the form of living quarters, lodging, board, or other items of value.	Subject	Subject	Subject Salary, Regular
Annuities	Payments to a tax sheltered or deferred annuity made at the election of an employee.	Subject	Subject	Subject Salary, Regular
Back pay	Compensation paid to an employee for a past work period. Example: a payment for a retroactive adjustment of an hourly pay rate arising from collective bargaining. Not a retroactive payment to correct a clerical error or pursuant to a settlement agreement (see Retroactive payments).	Subject	Subject	Subject Salary, Regular (Code 01- Regular Wages)

Payment Type	Description	Ch. 238 Tier One/Tier Two members (ORS 238)	OPSRP Pension Program members (ORS 238A)	Report this payment in the EDX DTL2 record field:
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Bonus	A gratuitous payment in addition to regular salary or wages. Does not include a retirement bonus	Subject	Subject	Subject Salary, Regular
Cafeteria plan 1 – employer paid (26 USC 125)	The number of possible structures for employer paid cafeteria plans make it impossible for PERS to generally categorize employer contributions to a cafeteria plan as subject or non-subject. The employer is in the best position to determine the structure and authority underlying its cafeteria plan and whether employer contributions to the plan are subject salary. ORS 238.005(26) and 238A.005(17) define salary for the PERS Chapter 238 Program and OPSRP Pension Program, respectively. Employers should use these resources and consult their legal advisor, if necessary, to make the determination.	Employer determination	Employer determination	Subject Salary, Regular; or Non-Subject Salary; as determined by the employer.
Cafeteria plan 2 – employee paid (26 USC 125)	Any amount contributed to a cafeteria plan by the employee even if not included in the employee’s taxable income.	Subject	Subject	Subject Salary, Regular
Cash or deferred accounts	Any amount contributed to a cash or deferred arrangement by the employer at the election of the employee that is not included in the employee’s taxable income by reason of 26 U.S.C. 402(e)(3). Includes 403(b) and 401(k) plans.	Subject	Subject	Subject Salary, Regular
COLA – cost-of-living adjustment, prior period	A payment made as a result of a labor agreement or compensation arrangement applying a cost-of-living adjustment to a prior period. Not a retroactive payment to correct a clerical error or pursuant to a settlement agreement (see Retroactive payments).	Subject	Subject	Subject Salary, Regular (Code 01-Regular Wages)
Death benefits	Payment of life insurance or other death benefits associated with the deceased member’s employment. Does not include lump-sum payoffs for accrued wages, sick, vacation, or other accrued leave.	Non-subject	Non-subject	Non-Subject Salary
Deferred compensation	Payment to a deferred compensation plan by an employee or an employer, made at the election of an employee. Includes 457 plans.	Subject	Subject	Subject Salary, Regular

Payment Type	Description	Ch. 238 Tier One/Tier Two members (ORS 238)	OPSRP Pension Program members (ORS 238A)	Report this payment in the EDX DTL2 record field:
	<i>(Determine whether payment fits general description)</i>	<i>This type of payment is:</i>	<i>This type of payment is:</i>	
Non-taxable Expenses	Only expenses reimbursed by an employer that are non- taxable to the employees.	Non-subject	Non-subject	Non-Subject Salary
IAP contributions (EPPT)	The amount of an employee contribution to the Individual Account Program paid by the employer and not deducted from the employee's compensation.	Non-subject	Non-subject	Non-Subject Salary
IAP contributions (MPPT, MPAT)	The amount of an employee contribution to the Individual Account Program paid by the employee and deducted from the employee's compensation, pre- or post-tax.	Subject	Subject	Subject Salary, Regular
IAP contributions (optional employer contributions)	The amount of any employer contribution to an employee's IAP account that exceeds the amount paid as EPPT, MPPT, or MPAT employee contributions.	Non-subject	Non-subject	Non-Subject Salary
Leave of absence	Payment for a leave of absence after a date the employer and employee have agreed that no future services will be performed. This type of payment is often associated with a delayed termination and/or a settlement agreement.	Non-subject	Non-subject	Non-Subject Salary
LSP/LSVP	Lump sum payments for accrued paid leave or compensatory time. See the Accrued payment types listed above.	See payment type	See payment type	See payment type
Medical premiums for a domestic partner	An amount paid for medical premiums as part of an employer provided benefit package to cover a domestic partner.	Non-subject	Employer determination	T1/T2-Non-Subject Salary; OPSRP-Subject Salary, Regular; or Non-Subject Salary; as determined by the employer.
Overtime pay, generally	Wages paid for time worked beyond a given upper limit for a day or week.	Subject	Subject	Subject Salary, Overtime
Overtime pay for hours exceeding average overtime	Wages paid for overtime that exceeds the average number of hours of overtime established by the employer for that class of employees (for OPSRP members only, this payment type is not included in the calculation for FAS).	Subject	Subject	Subject Salary, Overtime

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Overtime, Higher Education	Payments for instructional services rendered to Department of Higher Education institutions or the Oregon Health and Science University when those services are in excess of full-time employment. A person employed under a contract for less than 12 months is subject to this restriction only for the months covered by the contract.	Non-subject	Non-Subject	Non-Subject Salary
Qualified transportation fringe benefit plan	Pre-tax payments into a qualified transportation fringe benefit account at the election of an employee for reimbursable expenses for qualified parking, vanpooling, and transit passes.	Subject	Subject	Subject Salary, Regular
Release or Waiver of claims	Payments to an employee in consideration for the employee's release or waiver of claims against the employer.	Non-subject	Non-subject	Non-Subject Salary
Retirement payments or incentives	Any stipend, bonus, severance, or any other type of payment made to encourage retirement or in recognition of retirement from employment. Includes payments made to retirees after retirement.	Non-subject	Non-subject	Non-Subject Salary
Retroactive payments — Clerical Error	Retroactive payments of wages made to an employee to correct a clerical error. These payments are allocated to and deemed paid in the periods the work was done or would have been done.	Subject	Subject	Subject Salary, Regular (Code 04- Retroactive Payment)
Retroactive payments — Settlement Agreements	Retroactive payments of wages made to an employee pursuant to a judgment, administrative order, arbitration award, conciliation agreement, or settlement agreement that resolves a claim based on employment or wage law or a collective bargaining agreement. These payments are allocated to and deemed paid in the periods in which the work was done or would have been done, unless the member retired or withdrew during that period. (Employers should contact their Employer Service Center representative for assistance in allocation and reporting.)	Subject	Subject	Subject Salary, Regular (Code 04- Retroactive Payment)

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Salary increase to offset health insurance premiums (SB 862, 10/2013)	Salary increases made specifically to offset health insurance premiums previously paid by the employer.	Subject	Subject	Subject Salary, Regular
Salary limit	<u>Salary that meets calendar year compensation limits is considered subject for member account contributions.</u> Any salary in excess of the amount listed is non-subject. For years prior to 2020, for <i>OPSRP members only</i> , the limit will be prorated for partial year employment in a calendar year. Beginning January 1, 2020, contribution limits for <u>partial year employment</u> will apply to all members (Tier One, Tier Two and OPSRP). Any salary in excess of the amount listed (prorated for partial-years) is non-subject. Salary limits may differ for contributions and final average salary purposes.	Click here for current year limits	Click here for current year limits	Non-Subject Salary
Severance pay, generally	Lump-sum payment made to an employee upon a voluntary or involuntary termination of employment.	Non-subject	Non-subject	Non-Subject Salary
Severance pay per policy	Lump-sum payment made to an employee upon an involuntary termination of employment and pursuant to a pre-existing, written personnel policy, collective bargaining agreement, or contract.	Subject	Non-subject	Lump-Sum Payoff
Stipend (coaches)	A fixed amount paid as compensation for coaching services, regardless of number of hours worked. Example: a school teacher is paid an additional \$1,000 to coach the school's soccer team.	Subject	Subject	Subject Salary, Regular
Travel	Travel expenses reimbursed by an employer.	Non-subject	Non-subject	Non-Subject Salary
Wages paid to a surviving spouse or child	Payment of accrued wages and/or accrued paid leave, except sick leave to a surviving spouse or dependent child of a deceased member who died on or after June 29, 2005.	Subject	Subject	Subject Salary, Regular
Waiting time salary	Salary paid to an employee before the date the employee establishes membership (contribution start date) in the PERS Chapter 238 or the OPSRP Pension Program.	Non-subject	Non-subject	Subject Salary, Regular Qualifying position: wg. code 01 Non-qual. position: wg. code 02 NO contributions

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Workers' compensation	Payments made to an employee not performing services due to an injury that qualifies for workers' compensation. It does not matter whether the payments are made by a private insurer or a self-insured employer.	Non-subject	Non-subject	Non-Subject Salary
Workers' compensation gross-up	Payments by the employer to an employee to make up any shortfall between the employee's regular salary and the workers' compensation payment. The member must be still be employed in a qualifying position as defined in OAR Chapter 459.	Subject	Subject	Subject Salary, Regular

Revisions

8/26/2022: updated ORS for defined subject salary under payment type Cafeteria plan 1 — employer paid (26 USC 125).

4/4/2022: Removed "Bonus – not included in employee's Oregon Taxable income" payment type (SB 111A, 2021).

3/30/2016: Updated Salary Limits table.

12/4/2014: Added 2015 salary limits to "Salary Limits" through updated "current limit" links (line 38).

7/30/2014: Added proration statement to the description of "Salary Limit" (line 38).

3/14/2014: Added "Non-taxable" to payment type "Expenses" (line 22) and updated payment type description.

12/10/2013: Added 2014 salary limits for contributions (line 38).

11/14/13: Added "Salary increase to offset health insurance premiums" (SB 862, 10/2013).

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