

DEPARTMENT OF REVENUE

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be paid on the basis of piecework, or a percentage of the profits, and may be paid hourly, daily, weekly, monthly or annually.

(4) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as, for example, stocks, bonds or other forms of property. (See however section 71.19 (1) (i), Wis. Stats., relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business). If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employes its own stock as remuneration for services rendered by the employe, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

(5) Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employe no longer exists between the person in whose employ the services were performed and the individual who performed them.

(6) In general, pensions and retired pay are wages subject to withholding. So called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages.

(7) Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(8) Amounts of so-called "vacation allowances" paid to an employe constitutes wages. Thus the salary of an employe on vacation, paid notwithstanding his absence from work, constitutes wages.

(9) Any payments made by an employer to an employe on account of dismissal, that is, involuntary separation from the service of the employer, constitutes wages regardless of whether the employer is legally bound by contract, statute or otherwise to make such payments.

(10) Any amount deducted by an employer from the remuneration of an employe is considered to be a part of the employe's remuneration and is considered to be paid to the employe as remuneration at the time the deduction is made. It is immaterial that any act or law requires or permits such deductions.

(11) The term "wages" includes the amount paid by an employer on behalf of an employe, without deduction from the remuneration of or other reimbursement from the employe, on account of any tax imposed upon the employe by any taxing authority.

(12) The value of any meals or lodging furnished to an employe by his employer is not subject to withholding if the value of the meals or lodging is excludable from the gross income of the employe under the provisions of the internal revenue code, as defined in section 71.02 (2) (b), Wis. Stats.

(13) Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases) furnished or offered by an employer to his employes generally, are not considered as wages subject to withholding, if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment or efficiency of his employes.

(14) Tips or gratuities paid directly to an employe by a customer of an employer, and not accounted for by the employe to the employer, are not subject to withholding.

(15) Withholding is not required upon amounts paid to an employe by his employer under a wage continuation plan for a period during which the employe is absent from work on account of personal injuries or sickness if such amounts are exempt from withholding taxation under the provisions of the internal revenue code, as defined in section 71.02 (2) (b), Wis. Stats.

History: Cr. Register, January 1963, No. 85, eff. 2-1-63; r. and recr. (12), cr. (15), Register, March, 1966, No. 123 eff. 4-1-66.

Tax 2.91 Withholding; fiscal year taxpayers. (1) Except as provided in subsection (2) hereof, amounts withheld pursuant to section 71.20, Wis. Stats., in any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

(2) Any employe who reports his income for taxation to the state of Wisconsin on an income year other than the calendar year shall be allowed as a credit for any such fiscal year amounts withheld by his employer in such fiscal year provided his employer, on or before the end of the first month following the close of such fiscal year, shall voluntarily furnish such employe with 2 legible copies and the department of revenue with one legible copy of a written statement, adapted to such fiscal year, but otherwise consistent with the written statement referred to in section 71.10 (8) (a), Wis. Stats., and the employe files a copy of such statement along with his fiscal year return.

History: Cr. Register, March, 1963, No. 87, eff. 4-1-66; am. Register, February, 1975, No. 230, eff. 3-1-75.

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Tax 2.92 Withholding tax exemptions. (sections 71.20 (9) (e) and (14), Wis. Stats.) (1) An employe may claim the same number of withholding exemptions for Wisconsin as claimed for federal withholding purposes. An employe who elects to have federal withholding exemptions apply for Wisconsin withholding purposes shall notify his or her employer of this election. An employe making this election is not required to complete a Wisconsin withholding exemption certificate, Form WT-4. An employe who claims fewer withholding exemptions for Wisconsin than for federal withholding purposes shall provide his or her employer with a completed Wisconsin withholding exemption certificate, Form WT-4.

(2) An employe who had incurred no Wisconsin income tax liability for the preceding taxable year and anticipates no liability for a current taxable year shall be exempt from withholding if the employe provides his or her employer with a completed Form WT-4E ("Exemption from Withholding of Wisconsin Income Tax"). For this purpose, a tax liability is "incurred" if the employe had for the preceding year or anticipates for the current year a net Wisconsin income tax due (gross tax less personal exemptions on a Wisconsin return). If an employe is married, the net tax of the employe's spouse shall not be considered in determining if the employe may claim this exemption.

Note: Forms WT-4 and WT-4E may be obtained by mail request to Wisconsin Department of Revenue, P.O. Box 58, Madison, Wisconsin 53701.

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77.