

## Chapter DWD 101

### WAGES FOR CONTRIBUTION AND BENEFIT PURPOSES

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**Note:** Chapter ILHR 101 was renumbered Chapter DWD 101 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

**DWD 101.001 Definitions. (1)** IN GENERAL. Except as provided in sub. (2), unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

**(2)** In this chapter:

(a) “Employer” means any person who is or becomes subject to the reimbursement financing or contribution requirements of ch. 108, Stats., including multiemployer benefit plans and other third-party payors which become liable under s. DWD 110.06.

(b) “Informant” means an individual who is receiving a reward or payment for information relating to or assisting in an investigation of a possible violation of law, but not an undercover agent or other individual who is paid for the performance of investigative services or who receives such payment regardless of whether information relating to or assisting in an investigation of a possible violation of law is actually provided.

**History:** Emerg. cr. (intro.) to (3), (5), (7) and (10), (4) renum. from ILHR 110.001 (9), (6) and (8) renum. from ILHR 110.12 (1) (a) and (b), (9) renum. from ILHR 110.001 (15) and am., eff. 2–19–93; cr. (intro.) to (3), (5), (7) and (10), (4) renum. from ILHR 110.001 (9), (6) and (8) renum. from ILHR 110.12 (1) (a) and (b), (9) renum. from ILHR 110.001 (15) and am., Register, May, 1993, No. 449, eff. 6–1–93; renum. (1) and (2) to be ILHR 100.02 (2) (a) and (b), (3) to be (1), (4) to be ILHR 100.02 (2) (d), r. (5) to (10), Register, October, 1994, No. 466, eff. 11–1–94; r. (intro.), renum. (1) to be (2) and am., cr. (1), Register, September, 1995, No. 477, eff. 10–1–95; **CR 18–033: renum. (2) to (2) (intro.), (2) (b) renum. from DWD 100.02 (33) Register May 2019 No. 761, eff. 6–1–19.**

**DWD 101.01 Purpose.** The definition of wages in s. 108.02 (26), Stats., is patterned after the FUTA definition of wages found in 26 USC 3306(b). This chapter clarifies how the department shall apply the definition of wages in s. 108.02 (26), Stats., for benefit purposes and to assess employer contributions to the unemployment insurance reserve fund. This chapter also specifies changes to the definition of wages in s. 108.02 (26), Stats., and provides interpretations which may be inconsistent with those applied to 26 USC 3306(b), under the authority granted in s. 108.015, Stats.

**History:** Emerg. cr. eff. 2–19–93; cr. Register, May, 1993, No. 449, eff. 6–1–93; am. Register, October, 1994, No. 466, eff. 11–1–94; am. Register, September, 2000, No. 537, eff. 10–1–00; **CR 18–033: am. Register May 2019 No. 761, eff. 6–1–19.**

**DWD 101.02 Remuneration excluded from the definition of wages.** Notwithstanding s. 108.02 (26), Stats., wages shall not include remuneration paid to an informant by any federal law enforcement agency or law enforcement agency of the state

or any of its political subdivisions for information provided by the individual to the agency.

**History:** Emerg. cr. eff. 2–19–93; cr. Register, May, 1993, No. 449, eff. 6–1–93; renum. (intro.) and am., r. (1) to (4), Register, October, 1994, No. 466, eff. 11–1–94; am. Register, September, 1995, No. 477, eff. 10–1–95; **CR 18–033: am. Register May 2019 No. 761, eff. 6–1–19.**

**DWD 101.03 Remuneration included in the definition of wages.** Notwithstanding s. 108.02 (26), Stats., wages shall include all cash and non-cash remuneration paid for agricultural labor.

**History:** Emerg. cr. eff. 2–19–93; cr. Register, May, 1993, No. 449, eff. 6–1–93; renum. (intro.) and (1) and am., r. (2) to (5), Register, October, 1994, No. 466, eff. 11–1–94.

**DWD 101.04 Prospective application of federal interpretations.** A final federal interpretation about whether certain payments constitute wages, either generally or as to a particular case, which differs from an earlier departmental interpretation regarding those payments or kinds of payments shall only be applied prospectively. The department may not retroactively change either its interpretation or a determination based on that interpretation due to a subsequent and different federal interpretation.

**History:** Emerg. cr. eff. 2–19–93; cr. Register, May, 1993, No. 449, eff. 6–1–93; renum. from ILHR 101.05, Register, October, 1994, No. 466, eff. 11–1–94.

**DWD 101.05 Value of room and meals.** For purposes of s. 108.02 (26), Stats., the employer shall value lodging and meals at the actual value or, if the actual value is not available, the employer shall make a reasonable estimate of the value. If the actual value or reasonable estimate is not available, the department shall value lodging and meals as follows:

**(1)** Lodging – \$105.00 per week or \$15.00 per day.

**(2)** Meals – \$86.00 per week, \$12.30 per day or \$4.10 per meal.

**History:** Cr. Register, June, 1990, No. 414, eff. 7–1–90; emerg. renum. from ILHR 110.08 and am., eff. 2–19–93; renum. from ILHR 110.08 and am., Register, May, 1993, No. 449, eff. 6–1–93; renum. from ILHR 101.09 and am., Register, October, 1994, No. 466, eff. 11–1–94; **CR 18–033: am. (1) Register May 2019 No. 761, eff. 6–1–19.**

**DWD 101.06 Internal revenue code requirements.** When s. 108.02 (26), Stats., or FUTA requires that a payment must meet the requirements of a particular section of the internal revenue code in order to not be considered wages, the employer shall demonstrate to the satisfaction of the department that the payment meets such requirements.

**History:** Emerg. cr. eff. 2–19–93; cr. Register, May, 1993, No. 449, eff. 6–1–93; renum. from ILHR 101.10, Register, October, 1994, No. 466, eff. 11–1–94.