

2009
PAYROLL
TAXES
(Employer/Employee)

BY

TAX EDUCATORS

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Preparers must be aware that the laws are constantly changing and that the information in this manual may be superceded at any time.

ACKNOWLEDGMENTS

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IRS: Forms & Publications

IRS: Letter Rulings

J. K. Lasser

http://www.oregon.gov/DOR/BUS/publications.shtml#Combined_Payroll_Taxes

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WARNING!!

**PAYROLL TAXES MAY BE
HAZARDOUS TO YOUR
BUSINESS!!**

**FAILURE TO BE AWARE OF
REQUIREMENTS CAN
RESULT IN CASH FLOW
PROBLEMS AND LEAD TO
BUSINESS FAILURE/BANKRUPTCY!!**

As tax advisors, we are often the only ones in a position to provide information that may keep the taxpayer in business.

Payroll tax knowledge is a **must** if tax preparers intend to do small business tax returns.

PAYROLL TAXES

WHO IS AN EMPLOYEE?

A business usually would prefer to characterize individuals as independent contractors to avoid the burden of computing payroll taxes and to reduce the employer's own tax payments.

An **employee** status requires the employer to pay Federal and State unemployment, workmans compensation coverage and matching FICA and medicare tax.

BASIC DETERMINATION:

Whether or not the business **controls both** what the person performing the service does and **how** the work is performed. If a business does **both**, the individual is probably an employee.

SPECIFIC DETERMINATIONS:

Internal Revenue establishes certain factors that distinguish an employee from an independent contractor. Oregon Dept of Revenue and Workmans Compensation rules are generally the same. Both likings are included in the next few pages.

CAUTION:

Classification of what is really an employee, as a subcontractor could be very costly. Even if 1099 forms are issued, a later determination that the party was actually an employee could generate payroll tax liabilities and penalties for failure to file, withhold, and pay the tax.

From the standpoint of Workmans Compensation -- employers face a **very real** chance of being sued.

Remember----the person who wants to be paid as an independent contractor (or agrees to being paid as such) will probably work out just fine **—until**, he needs to draw unemployment, gets hurt, fails to pay his own taxes and social security medicare taxes and **then ---- the employer will have more expenses than if he had treated the person as an employee to begin with!!**

BURDEN IS ON THE EMPLOYER

FACTORS DISTINGUISHING AN EMPLOYEE FROM AN INDEPENDENT CONTRACTOR

Rev Rul 87-41 (IRS Guidelines)

- ★ **INSTRUCTION:**
A worker who is required to comply with other person's instructions about when, where, and how he or she is to work is ordinarily an employee. The control factor is present if the person or persons for whom the services are performed have the **right** to require compliance with instructions.

- ★ **TRAINING:**
Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular manner.

- ★ **INTEGRATION:**
Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends, to an appreciable degree, upon the performance of certain services, the workers who perform those services must necessarily be subject to certain amount of control by the owner of the business.

- ★ **SERVICES RENDERED PERSONALLY:**
If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as results.

- ★ **HIRING, SUPERVISING, PAYING ASSISTANTS:**
If the person for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises and pays the other assistants, pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates independent contractor status.

- ★ **CONTINUING RELATIONSHIP:**
A continuing relationship between the worker and the person for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals.

- ★ **SET HOURS OF WORK:**
Establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control.

IRS GUIDELINES REV. RULE 87-41 CONTINUED

★ **FULL TIME REQUIRED:**

If worker must devote substantially full time to the business of the person for whom the services are performed, such person has control over the amount of time the worker spends working and impliedly restricts the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses.

★ **DOING WORK ON EMPLOYER'S PREMISES:**

Suggests control over the worker, especially if the work COULD be done elsewhere. Control over the place of work is also indicated if person for whom services are performed have the right to compel the worker to travel a designated route, to canvas a territory within a certain time, or to work at specified places as required.

★ **ORDER OR SEQUENCE SET:**

If worker must perform services in the order or sequence set by person for whom services are provided, that factor shows that the worker is not free to follow the worker's own pattern of work.

★ **ORAL OR WRITTEN REPORTS:**

A requirement that the worker submit regular or written reports to person for whom services are performed indicates a degree of control.

★ **PAYMENT BY HOUR, WEEK, MONTH:**

Generally points to an employer-employee relationship, provided that the method is not just a convenient way of paying a lump sum agreed upon as the cost of the job. Payment made by the job or on a straight commission generally indicates independent contractor status.

★ **PAYMENT OF BUSINESS AND OR TRAVEL EXPENSES:**

Worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

★ **FURNISHING TOOLS AND MATERIALS:**

Tends to show existence of employer-employee relationship.

★ **SIGNIFICANT INVESTMENT:**

If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees that factor tends to indicate that the worker is an independent contractor.

(Maintains own office rented at FMV from unrelated party, etc.)

On the other hand, lack of investment in facilities indicates dependence on person for whom services are being performed - employer-employee relationship

IRS GUIDELINES REV. RULE 87-41 CONTINUED

★ **REALIZATION OF PROFIT OR LOSS:**

A worker who can realize a profit or suffer a loss as a result of the services (in addition to profit or loss ordinarily realized by employees) is generally an independent contractor but the worker who can not suffer losses as well as profits is an employee. (Economic risk rules)

★ **WORKING FOR MORE THAN ONE FIRM AT A TIME:**

If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially if such persons are part of the same service agreement.

★ **MAKING SERVICES AVAILABLE TO THE GENERAL PUBLIC:**

The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor status.

★ **RIGHT TO DISCHARGE:**

The right to discharge a worker is a factor indicating that the worker is an employee. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.

★ **RIGHT TO TERMINATE:**

If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability (Breach of contract), that factor indicates an employee relationship.

OREGON

SAIF CORPORATION (OREGON) INDEPENDENT CONTRACTOR DEFINITION

Must meet **ALL EIGHT** tests to qualify for non subject (non employee) status.

As used in various provisions of ORS 316, 656, and 701, and individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an “independent contractor” if the standards of this section are met:

1. The individual or business entity providing the labor or services is **free from direction and control** over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for **obtaining all assumed business registrations or professional occupation licenses** required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services **furnishes the tools or necessary equipment** for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the **authority to hire and fire** employees to perform the labor or services;
5. Payment for the labor or services is made **upon completion of the performance of specific portions of the project** or is made on the basis of an annual or periodic retainer;
6. The individual or business entity providing labor or services is **registered under ORS chapter 701**, if the individual or business entity provides labor or services for which such registration is required; (Construction Contractors Board - (503) 378-4621 - Salem)
7. **Appropriate federal and state income tax returns** in the name of the business or a business schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and

continued

SAIF CORPORATION (OREGON)
INDEPENDENT CONTRACTOR DEFINITION

8. The individual or business entity **represents to the public that the labor or services are to be provided by an independently established business.** Except when an individual or business entity files a Schedule F as part of the personal tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist:
- ✓ The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business.
 - ✓ Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
 - ✓ Telephone listing and service are used for the business that is separate from the personal residence listing and service used by the individual who performs the labor or services.
 - ✓ Labor or services are performed only pursuant to written contracts:
 - ✓ Labor or services are performed for two or more different persons within a period of one year; or
 - ✓ The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

TEST ONE

The first point concerning direction and control, relies on court decisions and Attorney General opinions as it did under the prior law. Consequently, certain sub-contractor categories generally will not meet the criterion and will continue to be viewed as subject workers. This includes individuals working as carpet layers, timber fallers, and long haul owner-operator truckers leased to another party. Also, two or more individuals claiming independent contractor status, but who work together on the same job, will generally be considered subject workers.

CONSTRUCTION TRADES

Since sub-contractors in the construction trades must meet these same criteria to be **registered with the Contractors Construction Board** (formerly called the Builders Board), a general contractor will usually be free of liability for a subcontractor who has a **current permit** with that agency. However, if the subcontractor clearly fails one or more of the eight test items, regardless of the statements on file with the Construction Board, SAIF reserves the right to independently determine the subject status and make its own premium and claims decisions. Please note that this amendment does not alter the subject status of partners in construction trades while they are on the jobsite. **If the partnership does not have its own policy, the general contractor is responsible for coverage.** Also, please note that independent contractor certification by the Employment Divisions has been repealed as it relates to workers' compensation.

NON-CONSTRUCTION INDUSTRIES

Other non-construction industries may have a wide variety of sub-contractors which may or may not be subject under the new definition (to workers' compensation). Certain workers specified in ORS 656.027 as non-subject due to their occupations are not affected by this amendment. However it should not be assumed that sub-contractors previously considered as "independent contractors" by insurers or by court decisions will retain that status. Adoption of a statutory definition requires that each point be met, and is therefore, a more rigid decision system. The employer should verify that sub-contractors meet each of the eight points based on the specific job advertised.

IF YOU NEED HELP

If you have questions regarding the new independent contractor status, contact nearest SAIF office.

Baker City	541-523-6342 or 1-800-285-8535
Bend	541-382-0322 or 1-800-285-8530
Eugene	541-683-6700 or 1-800-285-8560
Medford	541-770-5815 or 1-800-285-8550
North Bend	541-756-3118 or 1-800-285-8565
Pendleton	541-276-4130 or 1-800-285-8590
Portland	503-598-1212 or 1-800-285-8570
Roseburg	541-672-6317 or 1-800-285-8575
Salem	503-373-8000 or 1-800-285-8525
Service Center	1-800-848-2373 (small business resource)
Fraud	1-800-282-8822
Managed Care Questions	1-800-285-8525
Telecommunication Device for the Deaf (TDD)	1-800-283-0989
Corporate Headquarters	503-373-8000 or 1-800-285-8525

The online address below will furnish you a wealth of information.
Online at: <http://www.saif.com>
Small Business Service Center: 1-800-848-2373 or 1-503-598-5880
Service Center Email: servicecenter@saif.com

SHORT FORM RULES

Payments made to contractors or subcontractors are subject to **workmans compensation** except under the following circumstances:

- When a contractor employs others and carries his or her own workers' compensation insurance with coverage in effect before work begins under the contracts.
- When a contractor works without the assistance of others and meets commonly accepted court tests for independent contractors.
- When a contractor, with or without assistants, does a job that is not normally a part of the prime contractor's general task. (For example: a restaurant owner who contracts with a person to install kitchen equipment is not responsible for insuring the subcontractor or any assistants.)
- When a contractor performs construction work and is registered with the Construction Contractors Board.

LEASED EMPLOYEES

Employees leased from labor agencies are considered to have dual employers, the agency and the client employer. The coverage can be provided by the agency under certain conditions, but **if the client employers have their own policy they are required to cover the leased workers and pay the premiums.** Regardless of which party covers the leased workers, the premiums will be based on the client's experience rating. **Temporary workers provided by the agencies are not affected by this requirement.** Employers utilizing leased workers are encouraged to contact their leasing agent to coordinate coverage responsibility and premium payment.

VEHICLE OPERATORS (LOG TRUCKERS AND DUMP TRUCKERS)

If the driver is the owner/operator (furnish, maintain and operate motor vehicles used to transport logs, poles, pilings, rocks, gravel, sand, dirt or asphalt concrete) - they may be insured by endorsement to the coverage of the firm employing them, **OR** elect to obtain their own workers compensation insurance. **Additional workers hired** (other than the owner) must be covered by the operator or the company who hired the operator.

INTERNAL REVENUE FORM SS-8

DETERMINATION OF EMPLOYEE WORK STATUS FOR PURPOSES OF FEDERAL EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING

This is a four page question and answer form
Copies may be obtained by calling 1-800-TAX-FORM

SOME OF THE QUESTIONS ARE:

- ▶ Describe the firm's business
- ▶ Describe the work done by the worker
- ▶ If work is done under a written agreement, attach a copy
- ▶ If no agreement in writing, describe the terms and conditions of the work arrangement
- ▶ Is the worker given training by the firm? What Kind? How often?
- ▶ Is the worker given instructions in the way the work is to be done (elusive of actual training above) If yes – examples??
- ▶ Attach samples of any written instructions or procedures.
- ▶ Does the firm have the right to change the methods used by the worker or direct that person on how to do the work?
- ▶ Does the operation of the firm's business require that the worker be supervised or controlled in the performance of the service?
- ▶ Did the firm engage the worker
 - To perform and complete a particular job only
 - To work at a job for an indefinite period of time
- ▶ Is the worker required to follow a routine or schedule established by the firm.
- ▶ Does the worker report to the firm or its representative? Why? How?
- ▶ Does the worker furnish a time record to the firm?
- ▶ State the kind and value of tools, equipment supplies and materials furnished by:
 - The worker
 - The firm
- ▶ What expenses are incurred by the worker in performance of services
- ▶ Does the firm reimburse the worker for any expenses? Specify?
- ▶ Will the worker perform the services personally?
- ▶ Does the worker have helpers? Who hires them? Is firm's approval necessary? Who pays them?
 - Are social security and medicare taxes and federal income tax withheld from helper's pay?
 - Who reports and pays such taxes?
 - What services do the "helpers" perform?
- ▶ At what location are the services performed? (Firms, Workers, Other)
- ▶ Type of pay worker receives
Salary, Commission, Hourly, Piecework, Lump Sum, Other?)
- ▶ Does the firm guarantee a minimum amount of pay to the worker.
- ▶ Does the firm allow worker a drawing account or advances?
- ▶ Is the worker eligible for pension, bonus, paid vacations, sick pay, etc?
- ▶ Does the firm carry worker's compensation insurance on the worker?
- ▶ Does the firm withhold taxes from amounts paid to the worker?
- ▶ How does the firm report worker's earnings to IRS? (W2/1099-MISC/No report?)
- ▶ Does the firm bond the worker?
- ▶ Approximately how many hours a day does the worker perform services for the firm?
- ▶ Does the firm set hours of work for the worker?

INTERNAL REVENUE FORM SS-8

- ▶ Does the worker perform similar services for others?
 - If so - done on a daily basis for other firms?
 - Percentage of time spent for this firm? Other firms? Unknown?
- ▶ Does the firm have priority on worker's time
- ▶ Is the worker prohibited from competing with the firm either while performing services or during a later period.
- ▶ Can the firm discharge the worker at any time without incurring a liability
- ▶ Can the worker terminate the services at any time without incurring liability
- ▶ Does the worker perform services for the firm under the firm's business name, worker's own name or other?
- ▶ Does the worker represent himself or herself to the public as being in business to perform the same or similar services
- ▶ Does the worker have his or her own shop or office ? Where?
- ▶ Does the firm represent the worker as an employee of the firm to its customers?
- ▶ How did the firm learn of worker's services
- ▶ Is a license necessary for the work? What kind? Who issues the license? Who pays the fee?
- ▶ Does the worker have a financial investment in a business related to the services performed
- ▶ Can the worker incur a loss in the performance of the service for the firm
- ▶ Has any other government agency ruled on the status of the firm's workers? Attach copy!
- ▶ Is the same issue being considered by any IRS office in connection with the audit of the worker's tax return or the firm's tax return, or has it been considered recently.
- ▶ Does the worker assemble or process a product at home or away from firm's place of business.
 - If yes, who furnishes the material?
 - Is the worker furnished a pattern or given instructions to follow
 - Is the worker required to return the finished product to the firm

IF THE WORKER IS A SALESPERSON OR PROVIDES A SERVICE DIRECTLY TO CUSTOMERS - MORE QUESTIONS!

- ▶ Are leads to prospective customers furnished by the firm?
- ▶ Is the worker required to pursue or report on leads?
- ▶ Is the worker required to adhere to prices, terms, and conditions of sale established by firm?
- ▶ Are orders submitted to and subject to approval by the firm?
- ▶ Is the worker expected to attend sales meetings - (any penalty for failure to do so?)
- ▶ Does the firm assign a specific territory to the worker
- ▶ Whom does the customer pay (Firm or worker)
- ▶ Does the worker sell a consumer product in a home or establishment other than a permanent retail establishment?
- ▶ List the products sold.
- ▶ Did the firm or another person assign the route or territory and a list of customers to worker
- ▶ Did the worker pay the firm or person for privilege of servicing customers on the route or in the territory.
- ▶ How are new customers obtained by worker.
- ▶ Does the worker sell life insurance.
- ▶ Does the worker sell other types of insurance for the firm.
- ▶ Is the worker a traveling or city salesperson

FAIR LABOR STANDARDS REGULATIONS

The Fair Labor Standards Act (29 USC Sec 201) is the federal law of most general application regarding wage and hours of work, record keeping, overtime and child labor requirements.

FEDERAL MINIMUM WAGE

- ✓ Applies to employees directly employed in or supporting interstate commerce.
- ✓ Other businesses to which applicable:
 - Laundries, construction, hospitals, nursing homes, schools and retail service businesses **with annual sales** over \$500,000.
- ✓ Tips can be counted in meeting the federal minimum wage.
- ✓ Certain occupations within these covered businesses are exempt:
 - Executive, administrative, professional employees, outside salespeople, Fishing operations, farm workers on small farms.

Federal Minimum wage as of 4/2004. 2005, 2006 IS \$5.15 per hour
7-24-07 = \$5.85, 7-24-08 = \$6.55, 7-24-09 = \$7.25 (Waiters/Waitresses \$2.13 + Tips.)
(Oregon 01/2009 = \$8.40)

OREGON MINIMUM WAGE

\$ 5.50 per hour beginning January 1, 1997

\$ 6.00 per hour beginning January 1, 1998

\$ 6.50 per hour beginning January 1, 1999

\$ 6.90 per hour beginning January 1, 2003 - This is now being adjusted annually for inflation. Check with Bureau of Labor and Industries each year for updated figure.

\$7.05 per hour was the adjusted for inflation rate effective 1/1/04

\$7.25 " " " " " " " " " 1/1/05

\$7.50 " " " " " " " " " 1/1/06

\$7.80 " " " " " " " " " 1/1/07

\$7.95 " " " " " " " " " 1/1/08

\$8.40 " " " " " " " " " 1/1/09

FEDERAL AND STATE LAWS

Most Oregon employers are subject to both federal and state minimum wage and overtime laws. The effect of this **dual coverage** is that the employer must follow the stricter standard, e.g., the one most beneficial to the employee when there are conflicting requirements in the laws. For example, Oregon State law requires higher minimum wage rate, therefore **all Oregon employers** must pay the Oregon rate, unless their employees are exempt by Oregon law.

Some enterprises are not subject to Federal law (FLSA). The exemption is based on dollar volume tests.

There is no longer a different dollar amount for retail business than for other business types.

The present dollar amount is \$500,000. If the dollar amount is less than \$500,000, employees are not subject to FLSA rules **EXCEPT:**

Federal coverage also extends to:

- ★ Employees engaged in interstate commerce such as:
 - Communications by mail, radio, television, telephone etc.
 - **Transportation by truck, rail, air etc**
 - Manufacturing and whole distribution of goods moving in interstate commerce
 - Finance and **real estate**
 - **Agriculture, logging,** and mining
- ★ Employees of enterprises which are named in the FLSA
 - State and local governments
 - Residential care facilities and hospitals
 - Domestic service
 - Schools

OREGON BUREAU OF LABOR AND INDUSTRIES

MINIMUM WAGE LAW

OREGON EMPLOYERS AND EMPLOYEES INCLUDING THOSE NAMED IN FLSA ARE COVERED BY THE STATE MINIMUM WAGE LAWS.

EVEN THOUGH SOME EMPLOYERS MAY NOT BE SUBJECT TO THE FLSA, THEY ARE STILL SUBJECT TO OREGON LAW.

Smaller enterprises which gross less than the annual dollar volume requirement for federal coverage, and certain **non profit establishments** which are not subject to federal law **must comply with Oregon law.**

FEDERAL EMPLOYEES ARE EXEMPT FROM OREGON COVERAGE.

EXEMPT (EXCLUDED WORKERS)

- ✓ Independent contractors

(BOLI used the same Oregon guidelines for qualified independent contractor as SAIF rules previously stated) (ORS670.600)

- ✓ Volunteers meeting the following criteria:

- ▶ Work done for a public service, religious or humanitarian purpose;
and
- ▶ At the volunteer's own initiative; **and**
- ▶ Without any expectation of pay

If employee wishes to volunteer time to the employer, the volunteer duties may not be the same type of duties as are performed in the course of the regular employment, and the work must be performed outside the employee's normal work hours.

EXEMPTIONS
FROM MINIMUM WAGE AND OVERTIME
(Federal and Oregon)

- ★ **BABYSITTING** - in home of the child or the home of the sitter (ORS 653.020(13))
Under federal law, sitter must be employed on a **“casual basis”**.
Casual basis: Irregular or intermittent employment by one whose occupation is not babysitting.
If **not casual**, babysitting requires minimum Federal wage

- ★ **COMPANIONS TO THE ELDERLY:**
Federal law exempts companions to the elderly or infirm employed in a family home, from minimum wage and overtime. Oregon adopted the same rule.

- ★ **AGRICULTURE:**
Special rules under agriculture section

- ★ **MANAGERS, ASSISTANT MANAGERS, AND MAINTENANCE WORKERS EMPLOYED BY AND RESIDING IN MULTI-UNIT ACCOMMODATIONS.**
Must be paid Federal minimum wage and overtime if the **employer** is subject to federal law. (\$ limits)

- ★ **SEASONAL EMPLOYEES OF EDUCATIONAL OR ORGANIZED CAMPS**
As long as the camp grosses less than \$500,000 annually, or is a non profit organized camp. The camp must not operate more than 7 months in any calendar year; **OR** average receipts for any six months of the preceding year are not more than 33 1/3 percent of the average receipts for remaining months of that year.

- ★ **EMPLOYEES OF NON - PROFIT CONFERENCE GROUNDS OR CENTERS THAT ARE OPERATED FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL PURPOSES.**
(Same rules regarding # of months or average receipts as in above)

- ★ **GOLF CADDIES** when employed at a golf course in a supervised training program.

EXEMPT FROM MINIMUM WAGE

SALARIED EMPLOYEES

OUTSIDE SALESPERSONS IF CONDITIONS MET:

- ✓ Employed for purpose of selling goods or services or intangible items such as insurance, stocks, bonds, or real estate, away from the employer's premises (Door to door, traveling, etc) **and**
- ✓ The work performed on activities related to the sales work does not exceed 20 percent of the hours worked in a week by nonexempt employees of the employer. (State of Oregon standard is 30 % but most Oregon employers must apply the stricter federal rule)

No minimum salary requirement for the outside sales exemption

EXECUTIVE, MANAGER, OR SUPERVISION IF CONDITIONS MET:

- ✓ Employee must supervise two or more employees, **and**
- ✓ Must have hiring and firing authority or be able to make recommendations that carry weight **and**
- ✓ Must regularly exercise independent judgment and discretionary power **and**
- ✓ The employees primary duty (over 50% of work time) must be management of the enterprise or a department **and**
- ✓ He or she must be on **salary** basis.

Salary:

Oregon: No less than 2,080 hours times the current minimum wage divided by 12 months (ORS 653.010(10))
Effectively \$336 per week, \$1,456. per month

Federal: minimum salary of \$455. per week **or**
an executive, supervisor or manager who meets the first three tests above may also be exempt under federal law if the person is paid \$455 per week and if employee performs nonexempt tasks no more than 20 percent of the work week. (40 percent for retail establishments.)

**If meet first 4 tests and paid weekly salary of at least \$250 per week
Exempt under both federal and Oregon law.**

Sole charge of independent establishment of a company or a physically separated branch:

Exempt if first three tests met and paid on salary basis defined as no less than 2,080 hours times current Oregon minimum wage.

No primary duty test for this type of executive, manager or supervisor.

(Since Oregon law is the stricter, also exempt from federal if these tests are met)

EXEMPT FROM MINIMUM WAGE **SALARIED EMPLOYEES**

ADMINISTRATIVE EMPLOYEE:

Exempt if he or she meets following conditions:

- ✓ Employee must perform responsible non manual work directly related to management policies or business operations, or responsible work in administration of a school **and**
- ✓ The employee regularly assists an executive, or perform work under only general supervision **and**
- ✓ The employee must regularly exercise independent judgement and discretionary power **and**
- ✓ His or her primary duty (over 50 percent of work time) must be administrative and she/he must be paid on a salary basis. (As defined above). Federal law requirements are the same as above under executive, managers rules.

PROFESSIONAL EMPLOYEE:

Exempt if meet following conditions:

- ✓ The employee must perform work requiring an advanced type of knowledge usually obtained through a prolonged course of study **or**
- ✓ Must perform work that is original or creative in an artistic field, or work as a certified teacher or registered nurse **and**
- ✓ Regularly exercise independent judgement and discretion **and**
- ✓ Primary duty (over 50% of work time) must be professional as set in first 2 above. **and**
- ✓ Must be paid salary as defined by Oregon (listed above) or under Federal rules as per executive, manager rules above.

LIMITS ON TYPES OF REDUCTIONS THAT MAY BE TAKEN FROM SALARIES IF EXEMPT STATUS IS MAINTAINED:

- ✓ Employee who works any part of a day must receive full salary for that day.
Exception: Employers covered by federal Family and Medical Leave Act may reduce salary of exempt employee if the partial day is used for an absence due to leave under FMLA.
- ✓ Exempt employees who work any part of a workweek must receive their full salaries subject to following exceptions:
 - ▶ Full day absences for personal reasons not related to employee's illness may result in salary reduction.
 - ▶ May reduce salary of employee who misses full days for illness only if employer has a bona fide sick leave plan in place which provides compensation for such absences.

WAGE AND HOUR POSTERS REQUIRED

State and federal laws require employers to post minimum wage posters.

U S Dept of Labor, Wage and Hour Division (866)487-9243 or online
<http://www.dol.gov/esa/whd/>

Oregon Bureau of Labor and Industries, Technical Assistance for Employers:
(503) 731-4073 or download posters from
<http://www.boli.state.or.us/civil/postings.html>

Updated posters may be obtained from PC Limited 1-800-333-3795 to comply
With both Federal and Oregon regulations.

CERTIFICATION TO PAY LESS THAN MINIMUM WAGE

Employer's of student learners' in vocational training situations may apply (under state law to the Oregon Wage and Hour Division, under federal law to Wage and Hour Division, U S Dept of Labor) to pay a sub-minimum wage. **ALL** of the following conditions must be met:

- ◆ Student learners' work hours combined with their school hours must not exceed eight hours per day or 40 hours per week.
- ◆ Employment of a student at a sub-minimum wage is allowable only if the requirement to pay minimum wage results in curtailment of employment opportunities
- ◆ The occupation for which the training is being given requires a sufficient degree of skill to necessitate a substantial learning period.
- ◆ The training must not be for repetitive operations requiring only manual dexterity.
- ◆ The student learner must not displace another worker.
- ◆ The training of student learning will tend to serve occupational needs of the community or industry.

MINIMUM WAGE -DISABLED PERSONS

Employers of mentally or physically disabled may apply to the commissioner for certification to pay less than state minimum wage, provided it can be shown that the individual employee's opportunities for employment would definitely be curtailed if the full minimum wage were required. ORS 653.030. (If federally regulated establishment, apply to Wage and Hour Division U S Department of Labor for certification.)

DEDUCTIONS FROM MINIMUM WAGE

- ★ Value of meals - as long as employee actually wants the meals and consumes them
- ★ Lodging - only when furnished by employer for **private** benefit of the employee
- **Not when required as a condition of employment.**

**Deduction must be authorized in writing by
employee.**

NO DEDUCTION (From minimum wage)

For uniforms, laundry, tools, breakage or loss caused by the employee.

OAR 839-20-020.

Deposits for uniforms or tools may not be withheld to ensure the return of the item or payment of loss.

MINIMUM WAGE -TIP CREDIT PROHIBITED

State law prohibits using tips to calculate amount of minimum wage, even in FLSA regulated employment.

OVERTIME

GENERAL RULE

Both federal and state law - requires that employee be paid one and one-half times their regular rate of pay for any work time **over 40 hours in one workweek** (seven consecutive days).

Some employers must pay overtime on a daily basis.

- Manufacturing establishments
- Canneries not located on farms
- Local government agencies.

EXEMPTIONS FROM OVERTIME (Main ones) **but** must pay minimum wage

- Domestic employees who reside in the household of the employer
- All agricultural employees
- Truck drivers and their helpers who are subject to federal regulations by the motor carrier act.
- Salespersons, parts person, and mechanics working in automotive or farm implement dealerships
- Salesperson who sells boats, trailers, or aircraft
- Retail sales or retail service people who are paid commissions when commissions are more than 50 percent of employee's total compensation for a "representative period" of not less than one month; and if the employee is paid more than one and one-half times the minimum wage for all hours in the workweek.
- Employees of private recreational or amusement establishments in a national forest, national park, or national wildlife refuge must be paid overtime for hours worked over 56 in a workweek instead of the usual 40 hours in a workweek.
- Employees of motion picture theater enterprises.

OVERTIME
HOSPITALS, RESIDENTIAL CARE; "8 AND 80 RULE"

Hospitals and residential care facilities such as nursing homes, homes for the aged and residential care facilities for the mentally ill may use a work period of 14 consecutive days for the purpose of a calculating overtime provided the employee and employer have agreed to it prior to the performance of any work.

In such case, employer would pay 1.5 times the regular rate for any work performed **over 80 hours in the 14 day period.**

The employee must be paid 1.5 times the regular rate for hours worked over eight in a day.

The agreement must state the time and day of the week that the 14 period begins, which must be noted in the employer's records.

In cases where the employee has worked more than 80 hours in the 14 day period and have also exceeded eight hours in one or more days, the daily overtime paid may be credited toward the overtime due for time worked in excess of 80 hours in the 14 day period. **The effect is that overtime should be calculated both ways and the greater amount paid.**

Example:	Sat	8 hours	Sat	8 hours
	Sun	8 hours	Sun	8 hours
	Mon	10 hours	Mon	8 hours
	Tues	6 hours	Tues	8 hours
	Wed	8 hours		
	Thur	8 hours		
	Fri	8 hours		
	Totals hours worked		88	
	Overtime over 80 hours		8	
	Overtime over 8 hours		2	
	Total overtime to pay		8	

WAGE CLAIMS FROM EMPLOYEES

STATE CLAIMS:

The wage and hour division of the Bureau of Labor and Industries accepts wage claims from employees.

The agency has the right to inspect employer records and may do so in the course of the investigation.

Claims that cannot be resolved through the investigative process are handled through administrative hearings or in court.

Penalties of up to an additional 30 days of wages may be added to the claim as well as court costs and attorney fees.

State Statute of Limitations for wage claims is six years and two years for overtime claims.

FEDERAL CLAIMS

Wage and Hour Division of the U S Department of Labor has authority for enforcement of the Fair Labor Standards Act.

Authority to inspect records and require two years back payment of unpaid wages.

If violation found to be "willful", the division may go back a third year and require additional payment of unpaid minimum wages and overtime.

If a lawsuit results from the dispute with an employer, liquidated damages (twice the amount of unpaid wages) may be sought as well.

PRIVATE RIGHT OF ACTION

Employees may file private actions in state or federal courts.

DETERMINATION OF REGULAR RATE OF PAY

When compensation is not limited to regular hourly rates, it is necessary to compute regular rate of pay for purposes of overtime. Oregon state law does not require inclusion of commissions, overrides, spiffs, or bonuses..OAR 839-20-030

Most Oregon employers must apply the stricter federal standard and include commissions, bonuses and other payments in the regular rate when computing overtime.

COMMON BELIEF: SALARY BASIS RELIEVES RESPONSIBILITY FOR OVERTIME. WRONG!!

Overtime for **non-exempt salaried employees** must be computed at 1.5 times the employee's regular rate of pay.

Monthly salary x 12 = annual salary
Annual salary divided by 52 = weekly salary
Weekly salary divided by 40 hrs -= hourly rate
Hourly rate x 1.5 = overtime rate.

Salaried, non exempt employees may be docked for actual amounts of time not worked.

Fluctuating workweek salary method may be used for employment when the employee's hours vary due to the nature of the workweek. A special computation is required.

Monthly salary x 12 divided by 52 - weekly salary
Divide weekly salary by total hours worked = hourly rate
Multiply overtime (over 40 hours in a workweek) by .5 hourly rate to calculate additional overtime due.

In any workweek that the employee's hourly rate does not compute out to at least minimum wage, the employer must bring the rate up to minimum wage and compute overtime based on that hourly rate.

PIECE RATE AND DAY RATES

Divide the total earnings for the week by the actual hours worked in that week to find the hourly rate. Overtime rate is then one-half times the hourly rate times the number of overtime hours worked.

OVERTIME BASED ON ACTUAL HOURS WORKED

Employers are not required to include sick days, vacation days, or other hours not actually worked to determine total overtime hours.

COMP TIME

No provision for comp time off in lieu of overtime pay except government employees.

BENEFITS AND POLICIES

There is no legal requirement to offer benefits, but once promised they may not be arbitrarily withheld.

Employers should set forth conditions of benefits in a **written policy** which is distributed to employees and new hires. Language should be clear and precise.

Ambiguous Policies: In deciding such issues, courts are concerned with three factors:

- ✓ Did the employer make the policy known to employee?
- ✓ Did the employer clearly spell out the terms for earning the benefit that is in dispute?
- ✓ Was the employee's understanding of the policy reasonable?

Changes to policies may be made as long as the announcement is made in advance.

When company is sold, new owner is liable for any unpaid wages or benefits.

In the absence of a written policy, an employer's practices will serve as company policy.

VACATION PAY

Clear answers to the following questions should be in written policy:

- ✓ How long must an employee's term of service before vacation is awarded?
- ✓ Will vacation pay be prorated if an employee leaves in midyear?
- ✓ Will vacation earnings be allowed to accrue indefinitely, or have a maximum cap? Will hours over the cap be forfeited?

SICK LEAVE

There is **no legal requirement to pay an employee for time off when sick.**

When employers offer paid sick leave, employees may be guaranteed the right to use it in cases of pregnancy or parental leave.

SEVERANCE AND PENSION

Regulated by Employee Retirement Income Security Act (ERISA). ERISA is ever expanding and questions in this area should be directed to legal advisors, accounts, or directly to ERISA. Telephone (206) 553-4244 Labor Management Services Administration, Department of Labor in Seattle.

HOLIDAY PAY

No legal requirement to pay time off on holidays. If company policy to pay for certain holidays, employees must be paid for the time worked at their regular rate of pay and would also be entitled to the holiday pay.

HEALTH INSURANCE

Employers with 25 or more employees offering health benefits must also offer the option to enroll in a health maintenance organization. The HMO must provide services in the geographic area in which a substantial number of employees reside. The option need not be provided unless at least 25 employees agree to participate in a health maintenance organization.

Employers are required to notify employees when group policies are terminated if coverage is not replaced.

BONUSES **DISCRETIONARY AND NONDISCRETIONARY**

A bonus becomes part of the wage agreement if it is guaranteed, provided the employee performs in a manner prescribed by the agreement. This type of bonus may not be withheld arbitrarily. At termination, bonus money partly earned should be prorated.

A discretionary bonus may be given and does not have to be repeated.

HOURS WORKED

Employees must be paid for all of time required to be on duty.

Employer must pay for any time employee performs work whether work was authorized or not. Includes work performed away from job site, or even at home.

Employer's responsibility to see that work is **not** performed if employer does not want it performed.

Employer may not accept benefits of work without compensating for them.

Mere fact that a rule prohibiting unauthorized work is not enough; employer must enforce the rule, which could lead to disciplinary action.

Employer must pay for time an employee spends preparing equipment to work or cleaning up after work.

Employer must pay if employee is required to perform tasks during the meal period.

Home-to-work and work-to-home is generally unpaid time. Travel time during the course of a workday must be paid.

Overnight trips - travel time that falls within the employee's regular work hours or corresponding hours on days off must be paid.

Training time and meeting time must be counted as hours worked.

Employees who live on the premises are not considered to be working all the time they are on the premises. In determination of hours worked, any reasonable agreement of the parties which is a true reflection of the situation will be acceptable.

Note: The rule requiring employers to pay "show up" time was abolished in 1990. Prior to 1990, employers were required to pay 2 hours for showing up if there was no work.

RECORD KEEPING

Employer's responsibility to maintain accurate records - time keeping and payroll information.

Federal law requires these records be kept for a period of three years past date of the records.

State of Oregon law requires only two years. Oregon employers must comply with stricter Federal rules.

Because wage claims and/or contract claims may be filed in Oregon for up to six years, it may be advisable to keep records for longer than the law requires.

For each employee, keep a record of:

- ★ Name and social security number
- ★ Address, sex, and date of birth if under 19
- ★ Occupation in which employed
- ★ Time of day and day of week when workweek begins
- ★ Rate of pay
- ★ Actual hours worked each day
- ★ Total hours worked each workweek
- ★ Weekly (or daily) straight - time earnings due
- ★ Weekly overtime compensation due
- ★ Total additions to or deductions from wages for pay period
- ★ Date of payment, pay period covered and total paid.

WORKING CONDITIONS

All employers in Oregon, except U. S. Government employers, must comply with state laws that establish appropriate working conditions for employees, even though federal law does not require these same standards. Some of the employees are exempt from Oregon rules. OAR 839-20-100

REST PERIODS

Oregon law requires a period of rest of **not less than** 10 minutes (without deduction from pay) for every segment of four hours (or major part of four hours) worked in one work period. This is in addition to meal time.

MEAL PERIODS

Not less than 30 minutes must be provided to employees who work shifts of **six or more hours**.

For work periods of seven hours or less (but at least six), the meal period is to be taken between the second and fifth hour worked.

For work periods of more than seven hours, meal period must be taken between third and sixth hour worked.

If employee is required to remain on duty during the meal period, or performs any tasks, the employee must be paid for the meal period.

Meal periods must be 30 minutes without interruption to be unpaid time

RULES RELATING TO REST PERIODS AND MEAL PERIODS DO NOT APPLY TO ADULT EMPLOYEES IN AGRICULTURE.

AGRICULTURE

Agriculture is defined in FLSA as follows:

Includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices, including any forestry or lumbering operations performed by a farmer or on a farm as a incident to or in conjunction with such farming operations, including preparation for market, delivery to storage to market or to carriers for transportation to market.

Farmers and agricultural employers are required to consider both federal and state law in determining compensation for agricultural employees.

All agricultural workers are exempt from overtime and many are exempt from minimum wage. However, it is possible to be exempt under one law and still be required to pay minimum wage under the other.

Summary of minimum wage **exemptions for agricultural** employees under both FLSA and Oregon Minimum Wage Law:

- ◆ **All immediate family members of the farmer employer are exempt from minimum wage.**
- ◆ **“Small farm” exemption from minimum wage.**
 - **Federal** - all employees who work on farms which did not employ more than 500 man-days in any calendar quarter of the preceding calendar year are exempt from federal minimum wage.
Man day - any day during which an employee performs agricultural labor for not less than one hour.
Even if the farmer is exempt under federal law, employees who are not pruners or hand harvesters are subject to Oregon Minimum wage law.
 - **State of Oregon**- hand harvesters and pruners employed on farms which did not employ more than 500 piece-rate-workdays in any calendar quarter of the preceding calendar year are exempt from Oregon minimum wage. A “piece-rate-workday” is defined as any day during which an employee performs any agricultural labor on a piece-rate basis for not less than one hour.

AGRICULTURE

◆ **Commuter exemption from minimum wage.**

Both Federal and Oregon exempt persons employed as hand harvesters who commute daily from their permanent residence and who are paid on a piece-rate basis, and who have been employed in agriculture less than 13 weeks during the preceding calendar year are exempt from minimum wage. Oregon law includes pruners in this exemption as long as they meet the same criteria.

◆ **Sixteen years of age and under exemption from minimum wage.**

Hand harvesters under 16 as long as they are paid on same piece-rate basis as older workers,.

Federal law has stricter standard in that these young workers must be employed on a farm where their parent or person standing in place of their parent is also employed.

◆ **Range production of livestock exemption from minimum wage.**

Both Federal and Oregon exemption.
Oregon law requires payment of a salary which is defined as 2,080 hours times the current minimum wage, then divided by 12.

Agricultural employers are not required to comply with Oregon Administration Rules requiring rest periods and meal periods for adults.

LIMITATIONS ON NUMBER OF HOURS WORKED IN CERTAIN INDUSTRIES

MAXIMUM DAY FOR MILLS, FACTORIES, MANUFACTURING ESTABLISHMENTS:

10 straight time hours and three overtime hours at time and one half
In no case may employees work more than 13 hours in a 24 hour period.

Employees represented by a collective bargaining agreement are excluded from this requirement provided limits on the required hours or work and overtime payment have been addressed in the agreement.

Sawmills, planing mills, shingle mills, and logging camps are excluded from this requirement until similar laws are enacted in California, Washington and Idaho.

CANNERIES:

Maximum hours per day for worker under 18 is 10 hours.
Employers may apply to Wage and Hour Commission for special permit to employ 16 and 17 year old workers more than 10 hours per day.
Minors working more than 10 hours by permit must be paid time and one half.

Adults working more than 10 hours per day in canneries must be paid for any hours worked over 10 at time and one half.

MINES:

Eight hour maximum (in 24 hour period) for workers in underground metals mines.
Does not apply in case of emergency when life or property are endangered.
Does not apply to mines when tunnel work is no longer than 200 feet, or shaft work is no deeper than 150 feet, or to surface excavation.

GOVERNMENT WORK!

STATE AND LOCAL GOVERNMENT CONTRACTS

Contractor employing to work on a contract with state, local government agency, school district, municipal corporation or subdivision may not require any worker to work more than 8 hours per day or 40 hours per week, except in emergencies.

Excludes foreman, security guards and timekeepers paid on a monthly salary.
Labor performed to prevent or suppress fires under State Forester contracts are excluded.

LOCAL GOVERNMENT EMPLOYERS

Oregon law requiring payment of overtime is **not** preempted by federal law. Under Oregon law when "budgeted funds" are available, local government employers, other than the state, must pay time and one half for any hours over 8 in a day. When "budgeted funds" are **not** available an employer and employee may agree, in advance of the performance of the work, to compensate the employee in time off at the rate of time and one half.

FOUR DAY WORKWEEK

Employees on flex time (flexible hours) who work no more than four days a week may work up to 10 hours a day at their straight time rate of pay. **Such workers must be paid overtime (time and one half) whenever they work more than 10 hours in a day or 40 hours per week.**

EXCEPTIONS - CERTAIN WORKERS - FROM OVERTIME RATE

- ✓ Fire and police protection personnel employed by an municipal corporation.
- ✓ Workers employed to fight forest fires
- ✓ Employees or an irrigation system district actually engaged in the distribution of water for irrigation or private use.
- ✓ Workers employed 10 hours or less per day as long as they are not employed more than four days in a workweek.
- ✓ Executive, supervisory, administrative, and professional employees as defined in OAR 839-24-000 or by a collective bargaining agreement.

**A UNION COLLECTIVE BARGAINING AGREEMENT COVERING
EMPLOYEES OF A LOCAL GOVERNMENT MAY
SPECIFICALLY WAIVE THE REQUIREMENT TO PAY
OVERTIME DAILY.**

FEDERAL "COMP" TIME RULES

COMP TIME ACCRUAL

Federal law allows comp time off at the rate of 1.5 hours for each overtime hour if the employer and employee have made an agreement for performance of the work.

Maximum hours that may be accrued are 240 (represent 160 hours of actual hours worked after 40 each week)

Employer must allow employee to use comp time within a reasonable period after requesting the time off unless the employee's absence would unduly disrupt the operations of the agency. In such a case the agency may elect to pay cash in lieu of giving comp time off.

Records must be kept of all overtime hours worked and comp time hours accrued.

SEASONAL WORKERS

May accrue comp time up to 480, if their anticipated overtime hours during the busy season are more than 240. (Snow plowing, road maintenance, tax return processing, outdoor swimming pool attendance)

FIREFIGHTERS

Federal law requires an employer having five or more firefighting protection personnel to pay those personnel at 1.5 times regular rates for all hours worked over 53 in a week. Employer may average hours worked over periods longer than a week, but not more than a four week period. Civilian employees (dispatching, repair, or maintenance, clerical) are not subject to the 53 hour week and must be paid overtime for over 40 hours per week or 8 in one day.

Oregon law requires that any "regularly organized fire department" maintained by the city, municipality or fire district and employs **four** firefighters, must pay overtime over 56 hours in a week. May average hours worked per week over each **quarter** of their fiscal year.

Oregon fire departments employing less than four firefighters must pay overtime for any week worked more than 72 hours. May average of each quarter of fiscal year.

In Oregon **all** firefighters employed by a city, municipality, or fire district must be allowed 48 consecutive hours off duty during each 7 day period. Each 7 day period is understood to be any 7 consecutive days without regard to an established workweek.

SPECIAL RULES APPLY TO OVERTIME FOR LAW ENFORCEMENT PERSONNEL

EMPLOYMENT OF MINORS

WORK PERMITS

After September 9, 1995 - **individual** work permits no longer required for minors aged 14 - 17.

VERIFICATION OF AGE -

Employers are required to verify ages of all minors hired.
Must produce an acceptable document that verifies age

EMPLOYMENT CERTIFICATE

Employers who hire minors must apply with Bureau of Labor and Industries' Wage and Hour Division for an **annual** employment certificate for **each location** where minors are employed.

Application requires:

- Name and address of employer and company representative
- Estimated number of minors to be employed during year
- Description of duties to be performed
- Identification of all equipment/machinery to be operated by minors.

Changes to duties or equipment must be reported by "Notice of Change in Duties" form.

Validated certificate must be posted in a conspicuous location where employees may readily review it.

CHILD LABOR LAWS MUST BE COMPLIED WITH

EMPLOYERS MUST MAINTAIN A LIST OF ALL MINORS HIRED

EMPLOYMENT PERMITS FOR MINORS UNDER 14 -

Issued by Wage and Hour Division only in very limited circumstances and only after thorough investigation has been made.

CHILD LABOR REGULATIONS

EXCLUSIONS

Newspaper carriers and minors performing domestic work or work in private residences are **not required** to have work permits, nor are they subject to child labor laws.

Are entitled to file wage claims for unpaid wages which are due.

PARENTAL AND FAMILY EXEMPTIONS

Parents may employ their own children at any age in any occupation under state law.

Federal law prohibits parents from employing their own children in hazardous occupations such as manufacturing, mining and work declared hazardous by the Secretary of Labor.

Parents who employ their own children must apply for employment certificates and must pay at least minimum wage.

A minor may be employed in **agriculture** to operate power-driven farm machinery, by the parent or person standing in place of the parent **without** an employment certificate.

MINORS (UNDER 18) MUST BE PAID APPROPRIATE OVERTIME.

HOURS OF WORK FOR MINORS

Ages 16 and 17 - not more than 44 hours in any one workweek unless special emergency overtime permit.

Canneries- minors may not work longer than 10 hours in any one day except under special permit.

Youth Camps- 14 and 15 year olds:

May not work before 6 AM or after 10 PM and no more than 8 hours per day.

Other than Youth Camps - ages 14 and 15

May work between 7 AM and 7 PM for up to 18 hours per week during school year.

Restricted to three hours a day on school days.

Summer vacation - may work up to 8 hours per day & 40 hrs per week between 7 AM and 9 PM.

CHILD LABOR REGULATIONS

REST PERIODS FOR MINORS

At least 15 minutes with pay - during each work period of four hours or the major part of four hours.

MEAL PERIODS FOR MINORS

At least ½ hour no later than five hours and one minute after reporting to work. Unpaid time if relieved of all duties. If under 16 **must** be relieved of **all** duty.

16 and 17 year olds may be required to remain on call during meal breaks in cases where it is impossible to relieve the employee from duty completely. **Paid** time.

LIFTING WEIGHTS

No minor may be required to lift excessive weights.

PROHIBITED WORK FOR UNDER 18 YEARS OF AGE

Special permits **may** be issued for some of these if employee is a student-learner in a vocational training program and under close supervision by the school if employee has completed vocational training for the occupation and has either graduated from high school or is working during summer vacation.

HAZARDOUS WORK

- ◆ Manufacturing or storage occupations involving explosives
- ◆ Motor vehicle occupations, including driving and outside helper
- ◆ Coal mine occupations
- ◆ Logging and saw milling occupations
- ◆ Power driven woodworking machine operations.
- ◆ Occupations involving exposure to radioactive substances and ionizing radiations
- ◆ Power-driven hoisting apparatus occupations
- ◆ Power-driven metal forming, punching, and shearing machine operations
- ◆ Occupations in connection with mining, other than coal
- ◆ Occupations involving slaughtering, meat packing or processing, or rendering, including the use of cutting or slicing machines.
- ◆ Power driven bakery machine operations
- ◆ Power driven paper products machine occupations
- ◆ Occupations involved in the manufacture of brick, tile, kindred products.
- ◆ Occupations involved in the operation of power-driven circular saws, band saws, and guillotine shears.
- ◆ Occupations involved in wrecking, demolition, or ship breaking
- ◆ All roofing operations
- ◆ Excavation operations
- ◆ Occupations as messengers or delivery persons before 5am or after 10pm prohibited.

CHILD LABOR REGULATIONS

PROHIBITED TO MINORS UNDER 16 YEARS OF AGE

(In addition to the hazardous occupations previously listed)

Blast furnaces	Lumber Loading
Bridge operations	Mechanical amusements
Briquet plants	Milk condenseries
Building cleaning (exterior)	Moving buildings, bridges, structures
Canvassing door to door	Mines
Cattle handling	Outside sales door to door
Coal plants or bunkers	Peace officer work
Cold storage plants	Power works
Commercial docks	Quarries
Construction (alternation, repair, painting or demolition of buildings, bridges structures	Railroads
Creosoting works	Reduction works
Distilleries	Rock crusher
Electric power plants, lines	Smelters
Electric light plants, lines	Stockyards
Engineering works (construction, improvement, alternation, or repair of steam plants, water power plants, telephone, telegraphy or electric plants or lines, or of railroads, streets, highways, sewers harbors, docks, or canals	Surveying
Fire fighting	Tanneries
Foundries	Tree Surgery
Garbage works	Well digging and drilling
Gas works	Window cleaning (outside above ground)
Grain elevators	Wineries
Gravel or sand plant or bunker	Wood cutting, sawing
Ice plants	
Land clearing (with blasting or presence of heavy equipment)	
Logging operations	
Long shoring.	

CHILD LABOR REGULATIONS

MINORS UNDER 15 POWER DRIVEN MACHINERY PROHIBITED

Minors under 16 may not be employed in any **room or area** containing power-driven machinery in following industries:

Boat repair shops
Canneries
Chop mills
Creameries
Cycle repair shops
Electrotyping plants
Engraving plants
Factories (manufacturing, repair, alteration)
Feed mills
Flour mills
Garages
Grain warehouses
Irrigation works
Laundries
Lithographing plants
Mills
Motor repair shops
Photoengraving plants
Printing plants
Shipbuilding operations
Stereotyping plants

On any premises or in any room or place where power driven machinery is used for the purpose of adapting goods for sale.

MINORS OFFICE WORK ONLY IN FOLLOWING INDUSTRIES

Auto wrecking yards
Junk dealers
Motor vehicle transportation
Lumbering
Water works

FURTHER RESTRICTIONS FOR FEDERAL ON EMPLOYMENT OF 14 AND 15 YEAR OLD MINORS. Wage and Hour Division, U.S. Dept of Labor in Portland.

CHILD LABOR REGULATIONS

MINORS EMPLOYED IN AGRICULTURE

If assisting with riding in or on, or operating power driven farm equipment.

Must have employment certificate

Must have certificate of training for operation of farm equipment

Employer must obtain proof that minor has the certificate of training and apply for the employment certificate **before the minor is employed.**

Proof of training must be retained for two years.

Certificate of training by 4 H extension Service or Vocational Agriculture Safety Training Program. If neither of these available within 35 miles of minor's residence 16 and 17 year olds may be employed to operate or assist in operation of power driven equipment if **all** conditions met:

- ✓ Employer has verified the minor's age to be 16 or 17
- ✓ Employer has applied for employment certificate
- ✓ Minor, parent, and employer sign statement that the training is not available within 35 miles, that the employer has provided eight hours of instruction, including four hours of hands-on, and that the employer agrees to closely supervise the minor **and**
- ✓ The statement and employment certificate are submitted to Child Labor Unit.

If no training program available, minors under 18 may be employed to **ride** in or on power equipment if all the same conditions above are met except employer must only provide two hours of instruction instead of eight.

Minors in agriculture must be given 30 minute meal periods/15 minute rest periods

Minors 15 and younger working in agriculture are not subject to the work hours limitations of other occupations. They may begin working before 7 AM and may work later than 6 PM.

MINORS AND ENTERTAINMENT PRODUCTIONS

Minors of any age (except babies under 15 days old) may work in films, TV productions or stage entertainment productions.

Employers may apply for certification as a registered entertainment production employer. Registration entitles employer to hire any number of minors for short term jobs (five days or less) **without employment certificates.**

CHILD LABOR REGULATIONS

WORK EXPERIENCE PROGRAMS

PAID PROGRAMS

- ✓ Requires employment certificate
- ✓ Minimum wage required.

NON PAID PROGRAMS

Bureau presumes no employment relationship as long as **all** of the following requirements are met:

- ✓ No promise of future employment
- ✓ If work in hazardous areas is required, it is incidental to training
- ✓ Other workers are not displaced
- ✓ Training is of short duration
- ✓ Training is similar to that given in an approved vocational program
- ✓ Training is for benefit of the trainee
- ✓ There employer derives no immediate advantage from the training activities.
- ✓ Student is taking part in the program and is on the job primarily while the school the student attends is in session.

CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.

Failure to submit employment certificate \$100 for first offence

Maximum penalty per violation is \$1,000

OSHA

OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

Compliance with OSHA laws can seem impossible but the FINES ARE UNBEARABLE!!!

Each new employer **can request** a packet designed to help build an effective program to comply with the regulations. There are no requirements to register under OSHA itself. Until recently, employers were most often unaware of OSHA existence until they were inspected. Workers Compensation Department now advises new employers of OSHA existence.

Oregon Occupational Safety & Health Division
Labor and Industries Building
Salem, Oregon 97310
(503) 378-3272
FAX (503) 378-5729

The Oregon Safe Employment Act was enacted in 1973 to ensure the occupational safety and health of Oregon's work force.

OSHA rules are to establish minimum safety and health standards for all industries and outline specific standards for individual industries such as logging and agriculture.

In 1987, the Oregon Legislature passed new laws to increase worker protection.

In 1990 the prevention of workplace injuries, illnesses and fatalities were made a major component of worker's compensation reform.

As a result **safety committees are now mandatory** in most place of employment (small business with 10 or fewer workers in hazardous occupations such as logging and construction, and all larger businesses with 11 or more workers.)

NO WARNING TICKETS - CITATIONS ISSUED ON FIRST TIME VIOLATIONS AND MOST CITATIONS CARRY EXPENSIVE DOLLAR PENALTIES.

Unannounced safety and health inspections of work sites.
Compliance assistance is provided **after** the citation **unless** you request assistance and regulations

JOB SAFETY AND HEALTH POSTERS MUST BE POSTED IN WORKPLACE - SUBJECT TO FINES IF INSPECTION AND NOT POSTED.

EXTENSIVE CODE RULES CAN BE ORDERED TO FIND OUT WHAT YOU NEED TO DO FOR COMPLIANCE

OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION.

Code Order Form
Oregon Occupational Safety and Health Division (OR-OSHA)
Standards and Technical Resources Section
(503) 378- 3272
Fax (503) 378-5729

May file a request to receive changes notifications automatically.

Safety and Health Publications may be ordered - ONE FREE copy.

Brochures - Manuals - Pamphlets

Asbestos Standard for Construction Industry - Rules Guide
Developing Your Workplace Injury and Illness Prevention Program - Program Development
Employers: Are you getting loss prevention services from Your Workers' Compensation Insurance Carrier?
Excavations
Exposure to Hazardous Chemicals in Laboratories
Falling and Bucking Safety Guide
Hazardous waste and Emergency Response
Health and Safety Guidelines for VDTs (Video Display terminals) in the workplace
Occupational Hazards Common to Farming and Ranching in Oregon
Occupational Hazards Common to the Garbage Hauling and Recycling Industry
Occupational Safety and Health Consultative Services for Oregon businesses.
OR-OSHA Directory of Services.
Questions and Answers for Forest Practices rules (Logging related)
Questions and Answers for Hazard Communication
Questions and Answers for Hazardous Waste Operations and Emergency Response
Questions and Answers for Occupational Exposure to Bloodborne Pathogens

Safe Practices when working around Hazardous Agricultural Chemicals
(this pamphlet is written in English/Spanish/Cambodian/Chinese/
Japanese/Korean/Laotian/Russian/Thai/Vietnamese)

Underground Construction (Tunneling)
Workplace Safety Committees
Yarding and Loading (Logging)

OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

STICKERS

CPR trained - hard hat sticker
Don't Block Electrical switches or Panels
Emergency Information
First Aid Trained - Hard hat sticker
Prevent Accidents
Safety Committee - hard hat sticker
Safety Saves - hard hat sticker
Warning - All Guards Must be Secured in Place - Machine safety
Warning - Do not Use Around Energized Equipment (**required for agricultural metal ladders**)
Warning - It is Unlawful to Operate this Equipment within 10 feet of high voltage lines - Electrical

POSTERS AND FLYERS

Emergency Helicopter Services Directory
Field Sanitation Notice - Agriculture
Job Safety and Health - **Required** (Employer/employee rights and responsibilities)
Safety Health code Order Form

FREE PERIODICALS

Oregon Health and Safety Resource Newsletter
Audiovisual Catalog

TRAINING

OR-OSHA offers workshop-s and training sessions on safety and health codes, code applications, and technical topics.

The division also co-sponsors statewide educational conferences.

OR-OSHA Training Section 503-378-3272

FEDERAL E.I.N.

Every employer must apply for a Federal Employer Identification Number (EIN). Although sole proprietor business persons are not required to have a federal identification number to operate their business, they **must** apply for an EIN number when they hire employees.

Sole Proprietor:

Need a new EIN if:

- File bankruptcy under Chapter 7 or 11
- Incorporate
- Take in partners and operate as a partnership
- Buy or inherit an existing business that you operate as a sole proprietorship.

You can not use the EIN of former owner, even if he/she is your spouse.

Do **not** need a new EIN if:

- Change name of business
- Change location or add locations
- Operate multiple business

May not transfer EIN if you sell or transfer your business.

Corporation:

Need a new EIN if:

- Are a subsidiary of a corporation and currently use parent's corporate EIN
- Become a subsidiary
- The corporation becomes a partnership or sole proprietorship
- Create a new corporation after a statutory merger.

Do **not** need a new EIN if:

- You are a division of a corporation
- After corporate merger, the surviving corporation uses its existing EIN
- Corporation declares bankruptcy
- Your business name changes
- You change location or add locations
- You choose to be taxed as an S corporation
- After corporate reorganization, you only change identity, form, or place of organization. (May incorporate in another state as a new corporate entity.

FEDERAL E.I.N.

Partnership

Need a new EIN if:

- Fifty percent or more of the ownership of the partnership changes hands within a twelve month period.
- You incorporate
- One partner takes over and operates as a sole proprietorship
- You end an old partnership and begin a new one.

Do **NOT** need a new EIN if:

- Partnership declares bankruptcy
- Partnership name changes
- Change location of partnership or add location.

Estate, Trust, Employee Plans and Exempt Organizations requirements are not covered in this course.

HOUSEHOLD EMPLOYERS ARE NOT REQUIRED TO FILE FORM SS4 TO GET AN EIN NUMBER.

HOW TO APPLY FOR AN EIN

Tele-TIN:

Complete SS4

Call Tele-TIN phone number listed for your state or 1-800-829-4933

Write the EIN the IRS representative gives you in the upper right-hand corner of form SS4 above the phrase "official use only"

Sign and date the SS4

Either:

Mail within 24 hours to Tele-TIN unit at service center
address for your state

Or FAX it to IRS within 24 hours with a cover sheet identifying your
SS4 as a Tele-TIN submission.

Fax cover information:

Date you faxed it
Attention IRS TELE-TIN office
Form SS 4
Employee Name/number or name IRS employee gave you
Your phone number
Your name
Your Identification Number (SSN or EIN)
Number of pages.

By Mail

Complete SS4 at least 4 to 5 weeks before you need an EIN

Sign and date

Mail to service center address for your state

EIN number will be mailed within 4 weeks.

HOW TO APPLY FOR AN EIN

Specific Line instructions form SS4:

Line 1:

Sole proprietor - name of owner

Partnership - ALL partners' names

Corporation - Corporate name as it appears on corporate charter

Line 2:

Sole proprietor - name of business

Partnership - business name of the partnership

Corporation - DBA (Doing business as) name

EMPLOYER'S TAX GUIDE CIRCULAR E - PUBLICATION 15

Generally, when a new EIN is issued and SS4 indicates employees will be hired, IRS will send an employer packet which includes the above circular. This circular contains withholding tax tables as well as general information for employers.

EMPLOYMENT TAX RATES AND WAGE BASES

Social Security Tax:

6.2% for employers and employees (combined total)

Wage base is \$72,600 for 1999

Wage base is \$94,200 for 2006

Wage base is \$76,200 for 2000

Wage base is \$97,500 for 2007

Wage base is \$80,400 for 2001

Wage base is \$102,000 for 2008

Wage base is \$84,900 for 2002

Wage base is \$106,800 for 2009

Wage base is \$87,000 for 2003

Wage base is \$106,800 for 2010

Wage base is \$87,900 for 2004

Wage base is \$90,000 for 2005

Medicare Tax

1.45% each for employers and employees (2.9% total)

Applicable to **all** wages

Federal Unemployment Tax (FUTA)

6.2% for employers only

Wage base \$7,000.

ELECTRONIC DEPOSIT REQUIREMENT

Beginning January 1, 2002, you must use Electronic Federal Tax Payment System (EFTPS) if your total federal tax deposits made in 2004 exceeded \$200,000 (includes all deposits for employment tax, excise tax, and corporate income tax combined during calendar year), or you were required to use EFTPS in 2004. Watch 2005 and after as everyone is invited to file electronically by one means or another!

Participation is voluntary if deposits do not exceed new \$200,000 threshold **even** if required to electronically deposit under the old \$50,000 threshold.

Businesses that exceed new \$200,000 threshold must continue to use EFTPS in all later years even if deposits fall below the \$200,000 mark..

You are subject to a 10% penalty if you are required to use EFTPS and you do not.

Taxpayers will remain liable for penalties if a deposit is not made in the required manner.

EMPLOYMENT ELIGIBILITY VERIFICATION

Employers must verify that each new employee is legally eligible to work in the United States. This includes completing the Immigration and Naturalization Service (INS) Form I-9.

EMPLOYEE WITHHOLDING INFORMATION

Each new employee must complete Form W4.

Form W4 is reproduced in the form section.

EXEMPTION FROM INCOME TAX WITHHOLDING

An employee may claim exempt because he or she had no income tax liability last year and expects none this year. Wages are still subject to social security and medicare taxes. **Must receive W4 each year by Feb. 15 to claim exemption.**

Must complete a new W4 each year by February 15

Must send copies of newly executed W4 to IRS each quarter with form 941:

If employee claims more than 10 withholding allowances

If employee claims exemption from withholding and his or her wages would normally be more than \$200 per week.

IN COMPLETION OF FORM I-9

Employer must review and verify one document from List A
OR examine one document from List B and one from List C
and record the title, number and expiration date, if any of the documents.

OR

LIST A

Documents that Establish Both Identity and Employment Eligibility

1. U.S. Passport (unexpired or expired.
2. Certificate of U.S. Citizenship
3. Certificate of Naturalization
INS Form N-550 or N-570)
4. Unexpired foreign passport
With I-551 stamp or attached
INS form I-9 indicating un-
expired employment author-
ization.
5. Alien registration receipt
Card with photo
(INS Form I-151 or I-551)
6. Unexpired Temporary Res-
ident card. (INS Form I-688)
7. Unexpired Employment
Authorization Card.
INS Form I-688A
8. Unexpired Reentry Permit
INS Form I - 327
9. Unexpired Refugee Travel
Document (INS form I-571)
10. Unexpired Employment
authorization Document
Issued by the INS which
Contains a photograph
INS Form i-688B)

LIST B

Documents that Establish Identity

- 1 Drivers License or ID card
Issued by State or Possession
Of the US provided it contains
a photograph or information
such as name, date of birth,
sex, height, eye color/ address.
2. ID card issued by federal,
state, or local government
agencies or entities provided
it contains a photograph or
Information as per #1.
3. School ID card with photo
4. Voters registration card
5. U. S. Military card/draft
record
6. Military dependent's ID card
7. U.S.Coast Guard Merchant
Mariner card.
8. Native American tribal
document
9. Drivers license issued by a
Canadian government
authority.
10. School record or report
Card
11. Clinic, doctor, or hospital
Card
12. Day care or nursery school
Record

AND LIST C

Documents that Establish Employment Eligibility

1. U.S. Social security card
Issued by SS Administration
(Other than a card stating
that it is not valid for
employment
2. Certification of Birth abroad,
issued by Dept. of State
(Form FS-545 or DS-1350)
3. Original or certified copy of
a birth certificate issued by a
State, County, Municipal
authority or outlying possess-
ion of the U.S. bearing an
official seal.
- 4.. Native American tribal
document.
5. U. S. Citizen ID Card
(INS Form I -197)
6. I.D. card for use of Resident
Citizen in the United States
(INS form I-179)
7. Unexpired employment
authorization document
issued by the INS (other
than those listed under
List "A")

EMPLOYMENT FORM W-4
(See Form W – 4 at end of this course)

PURPOSE - So that employer can withhold correct Federal income tax from payroll

EXEMPT FROM WITHHOLDING

Exemption from withholding expires February 16, 2010

Can **NOT** claim "Exempt" if

- ✓ Income exceeds \$950 and includes over \$300 of unearned income (int.div etc)
- ✓ Another person can claim you as a dependent on their tax return

Itemized deductions or adjustments claimed on tax return. - Worksheet.	
1.	Enter an estimate of itemized deductions..... 1. _____ (Home mortgage interest, charitable contributions, state and local taxes (not sales tax), medical expenses in excess of 7.5% of income, and misc. deductions. You may have to reduce itemized deductions if income is over \$166,800 (\$83,400 MF Separate)
2.	Enter (for 2009)..... 2. _____ \$11,400 if married filing joint or Qual. Widow(er) \$8,350 if head of household \$5,700 if single \$5,700 if married filing separately
3.	Subtract line 2 from line 1. If line 2 is greater than Line 1, enter -0- 3. _____
4.	Enter an estimate of 2009 adjustments to income 4. _____
5.	Add lines 3 and 4 and enter the total 5. _____
6.	Enter an estimate of 2009 nonwage income 6. _____
7.	Subtract line 6 from line 5. Enter the result, but not less than -0- 7. _____
8.	Divide the amount on line 7 by \$3,500 and enter the result here. Drop any fraction 8. _____
9.	Enter the number from Personal Allowances Worksheet 9. _____
10.	Add lines 8 and 9 and enter the total here. If you plan to use two earner/ two job worksheet Also enter this total on line 1 of that worksheet Otherwise stop here and enter this total on W4 10. _____

Do not accept from an employee a 'substitute W-4 Form' after October 10th.

EMPLOYMENT FORM W-4

Two-Earners/Two Jobs

Figure total number of allowance allowed on all jobs using worksheets from **one** - W4 form. Generally, withholding will be most accurate when all allowable exemptions are claimed on the highest paid job and zero allowances on the others.

Worksheet	
1.	Enter the number from Personal Allowance Worksheet (or from line 10 in prior worksheet)..... 1. _____
2.	Find the number in Table 1 below that applies to the lowest paying job and enter it here 2. _____
3.	If line 1 is greater than or equal to line 2, subtract line 2 from line 1. Enter the result here (If zero, enter -0-) and on form W4 line 5, on page 1 Do not use the rest of this worksheet..... 3. _____
<p>Note: If line 1 is less than line 2, enter '-0-' on Form 2-4, line 5, page 1. Complete lines 4-9 below to calculate the additional withholding amount necessary to avoid a year-end tax bill.</p>	
4.	Enter the number from line 2 of this Wksht 4. _____
5.	Enter the number from line 1 of this wksht 5. _____
6.	Subtract line 5 from line 4 6. _____
7.	Find the amount in Table 2 (* on the form) below that applies to the highest paying job and enter here. 7. _____
8.	Multiply line 7 by line 6 and enter the result here. This is the <u>additional</u> annual withholding amount needed 8. _____
9.	Divide line 8 by number of <u>pay periods</u> remaining in 2009. Enter result here and on form W4 line 6. Page 1. This is the additional amount to be withheld from each paycheck 9. _____

* See W-4 page 2 at the end of this course.

VOLUNTARY WITHHOLDING - FORM W4-V

States must allow recipients to elect to have Federal income tax withheld at a 15% rate. This also applies to recipients paid under the Railroad Unemployment Insurance act.

Other recipients may elect withholding at 10%, 15%, 25%, 28% or 35%.

W-4V - VOLUNTARY WITHHOLDING REQUEST

For government payments:

- ★ Unemployment
- ★ Social Security benefits
- ★ Social security Equivalent Tier 1 Railroad Retirement benefits
- ★ Commodity credit Corporation loans
- ★ Certain crop disaster payments under Agricultural Act of 1949 or title II of the disaster Assistance Act of 1988.

Not **required** - request for withholding is voluntary.

EARNED INCOME CREDIT

REQUIRED NOTICE TO EMPLOYEES

Employer must notify employees who have no income tax withheld that they may be able to claim a tax refund because of Earned Income Credit.

Employers are required to notify any employee whose wages for 2009 are less than:

Single, HofH, QW, MFS with -0- dependent:		\$13,440
	-1- "	\$35,463
	-2- "	\$40,295
Married Filing Jointly	-0- "	\$18,440
	-1- "	\$38,583
	-2- "	\$43,415

This requirement may be met by issuing W-2 with the EIC notice on the back of copy B

ADVANCED EARNED INCOME CREDIT

Eligible employees with qualifying child are entitled to receive EIC payments with his/her pay during the year.

Employees must give employer a properly completed **Form W5**.

The employer is **required** to make advance EIC payments to employees who submit the properly filled out and signed form

Employees who are eligible for EIC but have no qualifying child can not get **advanced EIC.**

The advance payment can be as much as **\$1,835 for 2010** based on tables that reflect limits.

Eligible employees must file a new W-5 certificate each year.

Certificate must be revoked within 10 days after change of circumstances makes the employee ineligible by **employee** submitting a new W5 showing ineligibility.

If employee's spouse files a form W-5, the employee must file a new form W-5 - this will reduce maximum amount of advance payments that can be made to that employee

Advanced EIC is not wages and is not subject to withholding, social security or medicare taxes and does not change withholding amounts.

Advanced EIC must be shown on payroll reports (941) and on W2 at end of year as separate item.

Advanced EIC must cease if employee earns at least: SEE Table on previous page for phase-out amounts.

Advanced EIC payments are deducted from employers tax liability on form 941.

Deposit due dates: Advance EIC payments are considered deposited on date paid to employee.

Advanced EIC more than taxes due: may choose either to:

- ✓ Reduce employee advance payments proportionally so that EIC payments Equal amount of taxes due
- Or ✓ Elect to make full payment of advance EIC and treat excess as an advance payment of employment taxes.

RECORD KEEPING:

Keep all employment tax records for at least 4 years

- ★ Employer ID number
- ★ Amounts and dates of all wage payments
- ★ Amounts of tips reported
- ★ Fair value of in kind wages paid
- ★ Names, addresses, social security numbers and occupations of employees
- ★ Employee copies of W2 that were returned undeliverable
- ★ Dates of employment
- ★ Periods for which employees and recipients were paid while absent due to sickness or injury and amount and weekly rate of payments you or third party payers made to them
- ★ Copies of employee's income tax withholding allowance certificates (W4)
- ★ Dates and amounts of tax deposits made
- ★ Copies of returns filed
- ★ Records of allocated tips.
- ★ Records of fringe benefits provided, including substantiation.

SPECIAL EMPLOYEES

AMERICANS WITH DISABILITIES ACT - EMPLOYER RESPONSIBILITIES

The ADA of 1990 makes it unlawful to discriminate in employment against a qualified individual with a disability.

Disability: physical or mental impairment that substantially limits a major life activity. Also includes individuals who have a record of a substantially limiting impairment, and people who are regarded as having a substantially limiting impairment. (Not minor impairment)

Major life activity:

Hearing, seeing, speaking breathing performing manual tasks, walking, caring for oneself, learning or working.

Individual must qualify to perform the essential function of the job with or without reasonable accommodations.

It is unlawful to ask an applicant whether he/she is disabled or about the nature or severity of the disability, or to take a medical examination before making job offer.

After job offer is made and prior to employment duties, may require medical exam if everyone working in the job category must also take the examination.

DRUG USERS (illegally) are not protected by the ADA

To obtain more information: Office of Equal Employment Opportunity
(202) 663-4395 or write to 1801 L Street, N W Washington DC 20507

MINISTERS AND CHURCH WORKERS

Special rules apply to ministers and church workers. IRS Publication 15-A explains special requirements for reporting.

HOUSEHOLD EMPLOYEES

Employment taxes on wages paid to household employees are reported and paid with individual income tax returns (form 1040 - Schedule H)

Wages paid to household employees under age of 18 are exempt from social security and medicare taxes unless HH work is his/her principal occupation.

W4 and I9 requirements also apply to Household employees.

Soc Sec./Medicare taxes apply only to wages paid of \$1000 or more per year (each)

Required to issue a W2 form

STATUTORY EMPLOYEES

A statutory employee is someone who works for you and is not an employee under the common law rules. These people are considered employees by statute **for social security, medicare and FUTA purposes.**

- ★ Agent (or commission) driver who delivers food, beverages, (other than milk) Laundry, or dry cleaning for someone else.
- ★ Full time life insurance salesperson
- ★ Home worker who works by guidelines of the person for whom the work is done with the materials furnished by and returned to that person or someone that person designates.
- ★ Traveling or city salesperson (other than agent-driver or commission driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for items for resale or use as supplies in the customers business. Customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging .

STATUTORY NONEMPLOYEES

Direct sellers and qualified real estate agents are by law considered **non employees.** They are treated as self employed for all Federal tax purposes, including income and employment taxes.

WARNING

EMPLOYERS ARE LIABLE FOR SOCIAL SECURITY AND MEDICARE TAXES AND WITHHELD INCOME TAX IF THEY DO NOT DEDUCT AND WITHHOLD THEM BECAUSE THEY TREATED AN EMPLOYEE AS A NONEMPLOYEE.

FAMILY EMPLOYEES

CHILD EMPLOYED BY PARENTS

Child under 18 who works for his/her parent **in trade or business**
(Sole proprietorship or partnership in which each partner is a parent of the child)

Not subject to social security and Medicare taxes.

If wages **other than** trade or business (domestic work in private home), not subject to SS and Medicare until age 21.

Child under 21 works for parents - not subject to Federal unemployment

May still be subject to **withholding** for income tax.

SPOUSE EMPLOYED BY OTHER SPOUSE

Subject to income tax withholding

Subject to Social security and medicare taxes (unless **not** in trade or business)

Not subject to Federal Unemployment taxes.

COVERED SERVICES OF CHILD OR SPOUSE

Wages subject to withholding, social security, medicare and Federal unemployment if child or spouse works for:

- ★ A corporation, even if it is controlled by parent or spouse
- ★ Partnership even if child's parent is a partner unless **each** partner is a parent.
- ★ Partnership even if the individual's spouse is a partner
- ★ Estate, even if the estate of a deceased parent.

PARENT EMPLOYED BY CHILD

Subject to withholding, social security and medicare taxes if performed in trade/business

Subject to withholding, social security and medicare taxes if domestic services **IF:**

- ★ Parent cares for child who lives with a son or daughter who is under 18 Or requires adult supervision for at least 4 continuous weeks a calendar quarter due to mental or physical condition
- and
- ★ The son or daughter is a widow or widower, divorced or married to a person who, because of a physical or mental condition, cannot care for the child during such period.

Wages paid to a parent employed by child are **not** subject to FUTA regardless of the type of work performed.

WAGES AND OTHER COMPENSATION

All pay given to an employee for services performed are subject to Federal employment taxes.

- ✓ Cash or other forms
- ✓ Salaries
- ✓ Vacation allowances
- ✓ Bonuses
- ✓ Commissions
- ✓ Fringe Benefits
- ✓ Compensation for former services to former employee

Employee business expense reimbursements:

Accountable plan - not subject to income tax withholding and social security, medicare or Federal unemployment

Non Accountable plan - Considered wages and subject to all withholding and payroll taxes.

Per Diem and other fixed allowances - considered to be accountable plan
Standard mileage, standard meals, per diem rates

Wages not paid in money - subject to Federal employment taxes at Fair Market Value

Except noncash payments for household work, agricultural labor and services not in the course of employer's trade or business are exempt from social security, medicare, and FUTA taxes. Withholding only if mutually agreed by employer and employee.

Moving expense reimbursed and employer paid

If otherwise deductible moving expenses (by the employee) not includible in employee's income. Non qualified moving expenses are includible in income and are subject to employment taxes and withholding.

Common practice among the larger companies is to pay 'gross up' or costs of selling and buying a home. Since some of these costs **were** deductible, the taxpayer's often believe they still are. No such luck!!

Meals and Lodging - value of

Not subject to income tax withholding and employment taxes if furnished for the employer's convenience and on the employer's premises. "Lodging" must also be a "condition of employment".

WAGES AND OTHER COMPENSATION

Health Insurance Plans

Employer paid costs are not wages and not subject to employment taxes or withholding

Medical Savings Accounts

Employer contributions to employees MSA are not subject to social security, medicare, or FUTA taxes, or income tax withholding

Medical Care Reimbursements

Paid under an employer self-insured medical reimbursement plan are not wages and not subject to employment taxes or withholding

WAGES AND OTHER COMPENSATION

Fringe benefits

Unless law specifically says otherwise - fringe benefits are included in gross income and subject to income tax withholding and employment taxes.

Cars provided, flights on aircrafts, free or discounted commercial flights, vacations, discounts on property or services memberships in country clubs, memberships in social clubs, tickets to entertainment or sports events.

The amount included in wages is the amount by which the fair market value of the benefit is more than the sum of what the employee paid for plus any amount the law excludes.

NON taxable fringe benefits

- ✓ No additional cost services
- ✓ Qualified employee discounts
- ✓ Working condition fringe benefit (company car when used for company business)
- ✓ Minimal value fringes
- ✓ Qualified transportation fringes subject to certain limits
- ✓ Qualified moving expense reimbursements
- ✓ Use of on premises athletic facilities if substantially all use is by employees, spouses and dependent children.
- ✓ Qualified tuition reduction.

EXCEPT - If provided for highly compensated employees and benefit is not available to all employees on a nondiscriminatory basis, the following are not excluded:

- No additional cost services
- Qualified employee discounts
- Meals provided at employer operated eating facility
- Reduced tuition for education

WAGES AND OTHER COMPENSATION

WHEN FRINGE BENEFITS CONSIDERED PAID

Choice of employer:

- By pay period
- By quarter

Any other method as long as at least once a year

Not required to make formal choice or notify IRS of your choice

May choose different methods for different employees

May change methods as often as you like as long as you treat all benefits provided in a calendar year as paid by Dec. 31.

Valuation: May estimate value until year end but must determine actual value by Jan 31 of the next year.

Withholding: May add value of fringe benefits to regular wages for a payroll Period and figure withholding on the total, or may withhold Federal income tax at the **flat 25%** supplemental wage rate.

May choose **not** to withhold income tax on value of employees personal use of a vehicle but must withhold social security, medicare or railroad retirement taxes on the use of the vehicle.

Sick Pay - subject to all withholding and payroll taxes regardless of whether paid by employer or third party.

TIPS

Tips are generally subject to withholding and federal employment taxes

Employees must report cash tips to employer by 10th of month after the month the tips are received if \$20 or more

The report should include tips employer paid over to employee for charge customers and tips the employee received directly from customers.

No report is required for months when tips are less than \$20.

Employee tip report form 4070 or a similar statement. Statement must be signed by the employee and must show:

- ✓ Employees name address and SSN
- ✓ Employer name and address
- ✓ Month or period the report covers
- ✓ Total amount of tips.

Employer must collect income tax, social security tax and medicare tax from the tips. Can collect from the employees wages or other employees funds.

Do not collect social security taxes after employees tips and wages total more than \$87,900 for 2004. You must still collect income tax and medicare taxes.

ALLOCATED TIPS-

Only required under certain circumstances for large food and beverage establishments
No withholding or employment taxes on allocated tips.

Large food and beverage establishment:

- ✓ Serves food or beverages for consumption on the premises
- ✓ Where tipping is customary
and where there are normally more than 10 employees on
typical business day during the preceding year.

Allocation by:

- ✓ Hours worked
- or ✓ Gross receipts
- or ✓ Good faith agreement.

SUPPLEMENTAL WAGES

Includes bonuses, commissions, overtime pay, accumulated sick leave, severance pay, awards, prizes, back pay, retroactive pay increases and nondeductible moving expenses as well as fringe benefits and expense allowances under a non-accountable plan.

If paid **with** regular wages but not specified amount of each - withhold income tax as if total were a single payment for regular payroll period.

If paid separately or combined and specified, the income tax withholding method depends on whether or not you withhold income tax from employee's regular wages.

If you withhold from regular wages you can:

- ★ Withhold at flat 25% (**only**) no other percentage allowed
- or ★ Add supplemental and regular wages for most recent payroll period.
 - Figure income tax withholding as if total were single payment.
 - Subtract the tax already withheld from regular wages
 - Withhold the remaining tax from the supplemental wages.

If you did not withhold from regular wages you must use (b) above.

VACATION PAY:

If in addition to regular wages for the same period - treated as supplemental wages

If paid for longer period than usual pay period, withhold over pay periods paid for.

PART TIME WORKERS

For income tax withholding and social security, medicare, and federal unemployment tax purposes, there are no differences between full time employees, part time employees, and short term employees.

Does not matter whether employee has another job or has the maximum social security tax withheld by another employer.

EMPLOYER REQUIREMENTS

Each Payday:

Withhold Federal income tax based on each W4
Withhold employee's share of social security and medicare taxes
Include advanced earned income credit in paycheck if employee requested it on form W5

Quarterly:

Deposit FUTA tax in an authorized financial institution if under deposited amount over \$500
File form 941 and pay tax with return if not required to deposit.

Annually:

Remind employees to submit a new W4 form if they need to change withholding
Ask for new W4 forms for employees claiming exemption from withholding
Reconcile forms 941 and W3
Furnish each employee a form W2
File copy A of W2 and transmittal form W3 with SSA
File form 940 or 940 EZ (FUTA annual report)

Deposits:

Monthly depositors are allowed to pay net tax liability for the return period on 941 with the report **only** if total is less than \$2,500.00

Deposit due dates depend on deposit schedule (monthly or semiweekly)

Deposit in an authorized financial institution:

- ★ Withheld income taxes
- ★ Withheld **and** employer share of social security taxes
- ★ Withheld **and** employer share of medicare taxes

Less Any advanced earned income credit paid to employees

Date of deposit determined by date received by authorized depository bank or proof of mailed in US at least 2 days before due date.

Deposit before receiving EIN number must be deposited with IRS - not at bank and NOT on form 8109B

PENALTIES THAT CAN KILL A BUSINESS!

Penalties may apply if deposits are not made timely. (You can bet on it!)

Penalties will not apply to any failure to make a proper and timely deposit if reasonable cause and not willful neglect. (Don't count on it!)

- 2% - Deposits made 1 to 5 days late
- 5% - Deposits made 6 to 15 days late
- 10% - Deposits made 16 or more days late.
- 10% - Deposits made at unauthorized institution, paid directly to IRS or paid with return (unless depositing without EIN or under \$500.)
- 10% - Amounts subject to electronic deposit requirements but not deposited Using electronic Federal Tax Payment system)
- 15% - Amounts still unpaid more than 10 days after date of the first notice the IRS sent asking for the tax due or date you receive notice and demand for immediate payment whichever is earlier.

Deposits are applied to satisfy past due under-deposits for the quarter before current periods.

(Once you are behind, it seems to continue to get worse)

Form 8109 is a preprinted coupon. To order, call 1-800-829-4933

FORM 941 EMPLOYER'S QUARTERLY FEDERAL TAX RETURN

Employer's must file if they have employees subject to federal withholding, social security taxes withholding, medicare withholding, tips and sick pay subject to withholding or have paid advance earned income credit payments to employees.

Filed quarterly:

- For quarter ending March 31 - Due date of April 30
- For quarter ending June 30 - Due date July 31
- For quarter ending September 30 - Due date October 31
- For quarter ending December 31 - Due date January 31

Deposits, if required are monthly or semi-weekly dependent on total amount, calculated based on IRS lookback period.

NEW FOR 2006 AND AFTER

Certain small employers may have to file Form 944, Employer's ANNUAL Federal Tax Return, rather than Form 941, Employer's QUARTERLY Federal Tax Return, to report their employment taxes. For details, get Form 944.instructions.

FORM 941C

Statement to Correct Information

Filed with form 941, 941-M, 941-SS, 943, 945, or 843

FORM 8027

EMPLOYER'S ANNUAL INFORMATION RETURN OF TIP INCOME AND ALLOCATED TIPS

FORMS ARE ACCESSIBLE AT ADDRESS BELOW:

(If you are on the computer just click on it)

<http://www.irs.gov/formspubs/index.html>

ADJUSTMENTS TO FORM 941

CURRENT PERIOD ADJUSTMENTS

Reported on line 9 of form 941:

- ★ **Adjustment of tax on tips:**
If, by the 10th of the month after the month you received an employee report on tips, you do not have enough employee funds available to withhold the employee's share of social security and medicare taxes, you no longer have to collect it. Report entire amount of tips on lines 6c and 7a (medicare **wages** and **tips**).
Include as an adjustment on line 9 the total uncollected **employee** share of the social security and medicare **tax**

- ★ **Adjustment of group term life insurance premiums paid for former employees** - Social Security and Medicare taxes on premiums over \$50,000 for **former** employee are paid by the employee with his or her tax return and are not collected by employer.
Include social security and medicare taxes for these premiums on line 6b and 7b and back out the amount of employee share of tax on line 9

- ★ **Adjustment for third party sick pay**
Report both employer and employee share of taxes on sick pay on Lines 6b and 7b. Deduct the taxes on third party sick pay for which you are not responsible on line 9. Also enter the sick pay adjustment in the "sick pay adjustment" entry space.

- ★ Fractions of cents adjustment - line 9 and on "fraction of cents space"

PRIOR PERIOD ADJUSTMENTS FORM 941

Prior period adjustments can generally be made on a current period form 941.

Adjustments to correct **income tax withholding** errors only for quarters in **same year**

They must be substantiated by **attaching a form 941c** or another statement that shows:

- ✓ What the error was
- ✓ In what quarter the error was made
- ✓ The amount of the error for each quarter
- ✓ Date on which error was found
- ✓ That employee tax was paid or received from employee
- ✓ If entry corrects social security or medicare taxes over-collected, in an earlier year, that employer received from employee a written statement that he or she will not claim a refund or credit for the amount.

Do NOT file 941c or supporting statement separately.

SCHEDULE H
HOUSEHOLD EMPLOYMENT TAXES

For reporting:

- ▶ If paid household employee cash wages of \$1,700 or more **or**
- ▶ If withheld Federal income tax for any household employee **or**
- ▶ Paid **total** cash wages of \$1,000 or more in any calendar **quarter**

For payment of:

- ▶ Withholding - federal income tax
- ▶ Social security taxes
- ▶ Medicare taxes
- ▶ Federal Unemployment taxes (FUTA)

To be filed with **taxpayer's personal income tax return form 1040 or 1040A**

FEDERAL UNEMPLOYMENT TAX

Annual Report

940EZ can only be used if:

- ✓ Paid unemployment taxes to only one state
- ✓ Paid state unemployment taxes by due date of form 940/940EZ
- ✓ All wages that were taxable for FUTA tax purposes were also taxable for state unemployment tax.

Deposits are due for FUTA tax

On form 8109 at any time during the year that the tax liability reaches \$500.

Or using 940-EZ(V) voucher or through the IRS EFTPS system.

OREGON PAYROLL TAXES AND WITHHOLDING

New businesses that plan to hire employees must file a Combined Employers Registration Form to register with Oregon Unemployment, Withholding Tax, Tri Met Tax and LTD tax.

Available online - <http://www.dor.state.or.us/formspay.html>

Workmans Compensation must be separately applied for and should be in place by the time employees are on the job.

Complete instruction booklets with requirements for employers can be obtained from
Oregon Dept of Revenue
955 Center Street NE
Salem, Oregon 97310

All Oregon employers must withhold tax from employee wages at the same time employees are paid. For most Oregon employers, due dates for paying state withholding tax are the same as the due dates for making federal withholding and FICA tax deposits.

All Oregon employers must file withholding tax returns in addition to making required payments

WHO IS AN OREGON EMPLOYER

Oregon law differs somewhat from Federal law in this determination

According to Oregon law, an employer is a person or an organization for whom a worker performs a service as an employee. The employer usually provides the tools and the place of work and has a right to fire an employee.

Further Oregon definition is:

- ◆ A person who directs or controls the work of another
- ◆ An officer or employee of a corporation required to comply with withholding tax provisions.
- ◆ A member or employee of a partnership required to comply with withholding tax provisions.

<u>Oregon requires some employers to withhold tax even though they don't have to withhold Federal tax.</u>

EMPLOYERS RESIDING IN OR DOING BUSINESS IN OREGON

Must withhold tax from all wages paid to employees who are residents of Oregon even for services performed and wages earned outside Oregon.

Must withhold tax from all wages earned by Non resident employee for any **services performed IN Oregon.**

Employers located Outside Oregon: Oregon Dept of Revenue can not require withholding when services are performed outside the state, but the ODR asks employers to register and withhold taxes for Oregon residents as a convenience to the employee.

OREGON

MISCELLANEOUS INFORMATION

All clergy or religious organizations, including churches, are now subject to the Unemployment Insurance law of Oregon.

Employers are no longer required to file copies of W2 and 1099R with Oregon Department of Revenue. Form WR is still required and failure to file it may result in a penalty.

Retain payroll information for FIVE years for Oregon.

Deposits:

Generally required for withholding taxes if and when Federal deposits are required.

OTC coupons are issued after registration form is processed.

OTC coupons and payments can not be deposited at a financial institution. They must be mailed to:

Oregon Dept of Revenue
Box 14800
Salem, Oregon 97309

OR, through the State's EFT (electronic funds transfer) Program (registration req.)

Coordination with Federal:

Oregon allows employers to use Federal form W4 to determine status and number of exemptions for withholding.

Oregon now has a substitute W-4 which can be used by employees to instruct employers on their Oregon withholding instructions - <http://www.dor.state.or.us/formspay.html>

W4 required to be mailed to Oregon Dept of Revenue within 20 days after receiving it if:

- ★ Employee claims more than 14 exemptions
- ★ Employee claims to be exempt from both federal and state withholding tax
- ★ Employee claims to be exempt from state withholding tax but not from Federal

OREGON UNEMPLOYMENT INSURANCE

WHO PAYS IT

The entire cost of the unemployment insurance is supported by the **employer**. There is **no withholding** from employees.

WHAT EMPLOYERS ARE SUBJECT TO EMPLOYMENT TAX

Any individual or organization that has employees working for pay that meet **any** of the following tests:

- ✓ Employers, other than agricultural or domestic employers who
 - Pay \$225 or more to employees (combined) in a calendar year
 - Have one or more employees in each of 18 weeks during the year.

- ✓ Employ farm workers and pay \$20,000 or more cash wages in a calendar quarter or have 10 or more employee in each of 20 weeks during the year.

- ✓ Employ domestic workers in a personal residence and pay \$1000 or more in cash wages in a calendar quarter.

EMPLOYEES COVERED

An employee is any person employed for pay under any contract of hire unless specifically excluded under the law. The definition of “employee” for this tax purpose comes from Oregon statutes and differs from common law and other agency definitions.

A decision by another agency that a worker is not an employee is not binding on the employment division.

If uncertain whether to report a worker, contact local Employment Division.

CAUTION: INTERNAL REVENUE SERVICE MAY ACCEPT A PERSON AS A SUB CONTRACTOR - OREGON MAY CLASSIFY THAT PERSON AS AN EMPLOYEE FOR UNEMPLOYMENT PURPOSES.

OREGON UNEMPLOYMENT INSURANCE

WAGES

All compensation for service unless specifically excluded by law.

Payments other than cash are reportable at cash value in the quarter in which they are available to the employee.

- ✓ Payments by any type of corporation to a corporate officer for services, or by limited liability companies to members.
- ✓ Payments to corporate officers and members of an LCC
- ✓ Closely held family corporations may elect to exclude from U E tax **officers** who are directors, have a substantial ownership interest in the corporation **and** are members of the same family (Parents, daughters, sons, daughters-in-law, sons-in-law, or grandchildren). However, these excluded corporate officers may still be subject to Federal U E tax (FUTA) and higher FUTA tax rates may be required for these individuals. Election must be in writing and Will be effective first day of quarter in which it is sent. (503)378-3524 ext. 2 = for how to apply.
- ✓ Special payments for services such as:
 - ◆ Certain commissions
 - ◆ Fees
 - ◆ Bonuses
 - ◆ Prizes
 - ◆ Separation Allowances
 - ◆ Guaranteed wage payments
 - ◆ Vacation
 - ◆ Holiday pay
- ✓ Employee tips reported by the employer
- ✓ Actual value of lodging and meals provided to employees as part of their pay. When actual cash value is not available, the following minimum amounts have been established:
 - ◆ Room and Board \$150 per month
 - ◆ Meals \$1.50 per meal
- ✓ **Non cash** payments for **agricultural** and **domestic** services are **not** reportable.
- ✓ *Duly ordained, commissioned, or licensed ministers of a church or other Religious organization, when performing the duties of the ministry.*
- ✓ Some agricultural; and domestic wages are reportable.
- ✓ Non Profit Organizations wages are subject wages but under some circumstances they may elect to reimburse instead of paying the tax.
- ✓ Political subdivisions may elect to pay taxes instead of a reimbursement Plan.

OREGON UNEMPLOYMENT INSURANCE

TAXABLE WAGES

For 2006, 2007, 2008, 2009 2010 first 7,000 **per person** per year is subject to Unemployment tax.

RATE

2008, 2009, 2010 is 6.2%

NEW EMPLOYER rate is generally 3.0%. Each year the employer receives an "Experience rating" depending on claims filed against that account.

WHEN TO FILE

Due quarterly but may be deposited more frequently
Must be deposited or paid with an OTC coupon

OREGON WITHHOLDING TAX INFORMATION

SUBJECT TO WITHHOLDING - TAXABLE

- ✓ Salaries, Commissions, Bonuses, Wages, Fees
- ✓ Any other item of value paid to an individual for services as an employee
- ✓ Property or services to employee may also be taxable
(Merchandise, stocks, bonds, room, board)
- ✓ Wages paid when an employer-employee relationship exists between husband and wife
- ✓ Wages earned but unpaid at date of employee's death

EXEMPT WAGES - NON TAXABLE - NOT SUBJECT TO WITHHOLDING

- ✓ Value of meals and lodging furnished for convenience of employer
- ✓ Dwelling furnished to a minister (rental/housing allowance) if qualified
- ✓ Reimbursement based on actual expenses
- ✓ Domestic services in a private home, college club, sorority or fraternity.
(Must write "Domestic" on W2 copy for State)
(Does not apply if performs both domestic and business services)
- ✓ Casual labor that isn't in regular course of trade or business
- ✓ Temporary forest firefighters
- ✓ Employee trusts exempt from tax under Internal Revenue Code
- ✓ Seaman who are exempt under certain circumstances only
- ✓ Active service in armed forces
- ✓ Employees of interstate common carriers who earn less than 50% of their compensation
in Oregon, unless they are Oregon residents who didn't earn more than 50% of their
compensation in any one state
- ✓ Services provided to real estate brokers by real estate sales people. (Self employed)
- ✓ Seasonal farm worker whose total annual income from a single employer is less than \$300.
Only for planting, cultivating or harvesting seasonal crops. When
amount exceeds \$300, the entire amount, including the first \$300 is subject
to withholding tax.
- ✓ Duly ordained, commissioned or licensed ministers of a church when performing the duties
of the ministry and members of a religious order when performing
religious duties required by the order.

OREGON WITHHOLDING TAX INFORMATION

BONDING REQUIREMENTS

Employers who become delinquent in payment of withholding tax may be required to post a bond in an amount equal to the amount of tax due for one year.

PAYMENT OF OVERDUE ACCOUNTS BY BANK CARD

Payment of delinquent taxes may be made by bank card. Visa and Mastercard are the only acceptable cards. Minimum amount that may be paid by bank card is \$25.

WITHHOLDING FROM IRA, ANNUITY, AND OTHER DEFERRED COMPENSATION PLANS IS MANDATORY

TRANSIT DISTRICT EXCISE TAX

These tax programs are administered by Oregon Dept of Revenue for Tri County Metropolitan Transportation District (Tri-Met) and Lane Transit District (LTD). They provide revenue for mass transit. Transit payroll tax is imposed on most employers who pay wages for services performed **in the Tri-Met or LTD districts. Paid by employers only** (not employees)

(Note: Self employed individuals (anyone subject to self employment federal tax) are now also required to pay these taxes)

WAGES INCLUDE:

Salaries, commissions, bonuses, fees, other items of value paid for services performed within the transit district.

Also include:

- ▶ Payments to Simplified Employee Pension made at election of employee.
- ▶ Payments for purchase of 403(b) annuities under salary reduction plans
- ▶ Contributions to 401k retirement plans made at election of employee
- ▶ Pick up payments to governmental retirement plans under salary reduction Agreements.
- ▶ Amounts deferred under governmental deferred comp plans
- ▶ Any amount deferred under a nonqualified deferred comp plan

EXEMPT PAYROLL

- ✓ Federal and state government units
- ✓ Federal credit unions
- ✓ Public school districts
- ✓ Organizations, except hospitals, that have qualified for exemption under ORS 267.380(1)(b)
- ✓ Insurance companies (except motor service clubs, health care contractors, and domestic insurers)
- ✓ Domestic service in a private home
- ✓ Casual labor
- ✓ Services performed outside the district
- ✓ Seamen who are exempt from garnishment
- ✓ Employee trusts that are exempt from taxation
- ✓ Tips paid by customer to employee
- ✓ Wages paid to employees whose labor is **solely** connected to planting, cultivating or harvesting seasonal agricultural crops

EXEMPT from LTD but subject to Tri - Met

- ✓ Public education districts
- ✓ Public special service and utility districts
- ✓ Port authorities.
- ✓ Firefighters
- ✓ City County and Other local government units.

RATE - .0064

OREGON PAYROLL TAX FORMS AND INSTRUCTIONS

NOW AVAILABLE ON INTERNET

<http://www.dor.state.or.us>

Oregon Dept. of Revenue
(503) 945-8091 or (503) 378-4988
TTY users: (503)945-8617

Withholding, Tri Met., LTD taxes
Oregon Quarterly Tax Report (Form OQ)
Oregon Schedule B
Annual withholding tax reconciliation Report (Form WR)

Oregon Employment Department
(503) 378-3524
TTY users (503) 373-7656

State Unemployment Insurance
Oregon Quarterly Tax Report (For OQ)
Employee Detail Report (Form 132)
Change In Status Report (Form 013)
Order Request form

Oregon Department of Consumer and Business Services
General Questions (503) 378-2372 **Subjective questions (503) 945-7888**
TTY users (503) 378-2372 **TTY users (503) 945-7888**

Workers' Benefit Fund Assessment - Oregon Quarterly Tax Report (Form OQ)

Mail payments with coupons and completed forms to:

Oregon Department of Revenue
P O Box 14800
Salem, OR 97309-0920

Mail Magnetic Media Reports to:

Tax Section, Room 107
Employment Department
875 Union St. NE
Salem, OR 97311-0030

In accordance with Americans with Disabilities Act - this information is available in alternative formats upon request by calling: Oregon Dept of Revenue 503-378-4988 and Oregon Employment Dept at (503) 378-3524.

OREGON WORKERS BENEFIT FUND ASSESSMENT

SUBJECT WORKERS

Applies to those workers and employers who are subject to workers compensation law, or who elect to maintain workers' compensation insurance coverage.

ASSESSMENT

Calculated on all hours and parts of hours worked and there is no maximum amount for the year.

The hourly assessment rate is may change annually.

Employers pay one half of the hourly assessment amount and deduct one-half of the assessment from workers' wages.

If not paid hourly, may calculate total hours using a flat rate of 173.33 hours per month or 40 hours per week (prorated for part time workers).

Must document how calculations were made in case of audit.

Does **not** include standby time.

May **not** round hours to calculate deductions. Round to nearest whole, the total sum of all workers' hours reported on report.

Round fractions of cents in product of hours worked multiplied by the assessment rate.

REPORTING AND PAYMENT

Report quarterly

Pay quarterly using a payment coupon form OTC

2009 Rate - .Minimum: .009 Maximum: .054 Base Rate: .024

OREGON COMBINED TAX PAYMENTS

DUE DATES

Unemployment Insurance, Workers' Compensation Assessment and transit taxes are due with the quarterly report. Oregon withholding tax due dates are listed below:

<u>If your federal tax liability is:</u>	<u>Oregon withholding tax payments are due:</u>
Less than \$2500 for the quarter	Within 30 days after end of quarter
\$50,000 or less in lookback period*	by the 15 th of the month following payroll.
More than \$50,000 in the lookback period	Semi-weekly by the following schedule:
<p style="text-align: center;">Wednesday, Thursday, Friday - payment due following Wednesday Add one banking day for each holiday that occurs between the payroll date and the payment due date, if applicable.</p> <p style="text-align: center;">Payday on Sat., Sunday, Monday or Tuesday - payment is due by the following Friday. Add one banking day for each holiday that occurs between the payroll date and the payment due date, if applicable.</p>	
\$100,000 or more	Within one banking day

*Lookback period is defined as the twelve-month period ended the preceding June 30.
The lookback period for agricultural employers is the calendar year preceding year just ended.

If required to make withholding tax deposits on a monthly basis and become subject to the one day banking rule by exceeding \$100,000 in federal tax liability for a single payroll period, your deposit requirement changes to semi-weekly for Oregon withholding tax and the change is effective for the remainder of the calendar year, and all of the following calendar year. The one day banking rule still applies when applicable.

SUBMIT AN OTC COUPON WITH EACH PAYMENT

If for two or more quarters, submit one coupon for each quarter

OREGON QUARTERLY REPORT

FILING REQUIREMENTS

Report is due for each quarter employer is in “active” status for withholding, TriMet or LTD taxes, State Unemployment Insurance or Workers’ benefit fund assessment.

Check the box at top of form OQ if no payroll during the quarter and enter -0- in boxes 10, 12, and 14 if no hours worked to report.

DUE DATES

	<u>QUARTER</u>	<u>QUARTER ENDING</u>	<u>DUE DATE</u>
1 st	Jan-Feb-Mar	March 31	April 30
2 nd	Apr-May-June	June 30	July 31
3 rd	July-Aug-Sept	Sept. 30	Oct. 31
4 th	Oct-Nov-Dec	Dec. 31	Jan 31

If due date is on a holiday or weekend, the report is the next working day.

PENALTY WITHHOLDING AND TRANSIT TAX

5% late payment penalty on paid tax after due date.

ADDITIONAL 20% ON ANY TAX DUE IF FILED MORE THAN THREE MONTHS LATE
100% PENALTY FOR TAX DUE IF REPORTS ARE NOT FILED FOR THREE YEARS IN A ROW.
PLUS INTEREST!!

PENALTY UNEMPLOYMENT REPORT

Late filing penalty if OQ of form 132 is filed more than 10 calendar days after due date and you have previously received a late filing notice.

Penalty is \$4 for EACH employee with minimum \$50 and maximum \$1,000

If no subject wages are reportable but the report is filed late - \$5 late fee

PENALTY FOR LATE FILING WORKERS BENEFIT FUND ASSESSMENT

Late filing penalty if report filed more than 10 calendar days after due date.
Civil penalty of up to \$2,000 for each violation if payment or report not timely.
Penalties at 10% of outstanding balance - minimum of \$50 for each violation.

OREGON QUARTERLY REPORT

INTEREST ON UNPAID UNEMPLOYMENT INSURANCE TAX

1.5 % per month or fraction of a month following the quarter for which the payment is made. Interest assessed even if **one day** late.

INTEREST ON WORKERS' BENEFIT FUND ASSESSMENT

9% per year

ADDITIONAL PENALTY FOR UNEMPLOYMENT INSURANCE TAX

Penalty may be charged to employers who have failed, as of September 1 to:
file all unemployment insurance tax reports (OQ and 132)
and/or pay the tax due.

Penalty is 1% of the employers previous year's taxable payroll. This is in addition to all other penalties and interest.

OREGON QUARTERLY REPORT

AMENDED REPORTS OR ADJUSTMENTS

Form OQ, Form 132 or Oregon Sch. B

Copy the original report, make necessary changes on the copy and clearly mark "Amended" at top of the form.

Mail to

Oregon Dept of Revenue
P O Box 14800
Salem, Oregon 97309-0920

ADJUSTMENTS TO WORKERS BENEFIT FUND ASSESSMENTS

Do not adjust for a prior quarter's over-reported or under-reported hours or assessment on the current quarter's form OQ. List these adjustments on a copy clearly marked "Amended" name the quarter you are amending, and send it to:

DCBS, Receivables Unit
350 Winter St. NE
Salem, OR 97310-0768

NUMBER OF COVERED WORKERS FOR STATE UNEMPLOYMENT INSURANCE

Total of full-time and part time workers who worked or received pay during the payroll period which includes the 12th of the month.

- **Daily pay period** - enter number of workers on the daily payroll for the workday nearest the 12th of the month.
- **Weekly, bi-weekly, or semi-monthly** payroll for the period which includes the 12th of the month.
- **Monthly pay period** = number of workers on monthly payroll
- If you had no covered workers during any pay period enter zero in the appropriate box. **Do not leave these boxes blank**

OREGON CHANGE IN STATUS REPORT

An employer must notify the Employment Department, Department of Revenue, or the Department of Consumer and Business Services of any change in the business.

- ✓ Address change
- ✓ Name change
- ✓ Federal Identification number change
- ✓ Closing, sale, or lease of the business
- ✓ Continuing the business but operating without employees
- ✓ Formation or dissolution of a partnership, a corporation, or a limited liability company
- ✓ Change in corporate officers or members of a partnership
- ✓ Transfer of employees to a leasing company
- ✓ Death of an owner
- ✓ Merger into another corporation
- ✓ Changing from sole proprietorship to partnership or corporation
- ✓ Changing from corporation to sole proprietorship or partnership
- ✓ Changing from partnership to sole proprietorship or corporation
- ✓ Adding a spouse as a liable owner
- ✓ Closing operations in a transit district
- ✓ Beginning operations in a transit district.

OPTIONS FOR TRANSMITTING REPORT DATA

ENTIRE QUARTERLY REPORT - Electronically or by diskette

Software supplied free of charge by Employment Dept. (OTTER)

EMPLOYEE DETAIL REPORT (FORM 132) -Magnetic tape, cartridge, or diskette

(In federal format)

PAPER FILE - Computer print date on white 20 pound paper in same format as the pre-printed forms. If use dot matrix printer, be sure print is dark black.

Laser printer, inkjet printer or dot matrix printer, use Courier 12 point font.

MAIL MAGNETIC TAPE, CARTRIDGE, OR DISKETTE INFORMATION TO:

Employment Dept. Tax Section,
Rm 107, 875 Union St. NE,
Salem, OR 97311-0030

ONLINE - SETRON

You can now file combined quarterly payroll tax reports on line at www.emp.state.or.us/tax.

OREGON WORKERS' COMPENSATION

A complete booklet of detailed information about workers' compensation is available from SAIF Corporation.

Corporate Headquarters

503-373-800 or 1-800-285-8525

Baker City Office

541-523-6342 or 1-800-285-8535

Bend Office

541-382-0322 or 1-800-285-8530

Eugene Office

541-683-6700 or 1-800-285-8560

Medford Office

541-770-5815 or 1-800-285-8550

North Bend Office

541-756-3118 or 1-800-285-8565

Pendleton Office

541-276-4130 or 1-800-285-8590

Portland Office

503-598-1212 or 1-800-285-8570

Roseburg Office

541-672-6317 or 1-800-285-8575

Salem Office

503-373-8000 or 1-800-285-8525

Claims Questions

1-800-285-8525

Fraud Hotline

1-800-282-8822

Managed Care Questions

1-800-285-8525

Telecommunication Device for Deaf

1-800-283-0989

SAIF

SAIF Corporation is an independent, public owned corporation created by the Oregon Legislature in 1979 to replace the State Accident Insurance Fund, which was a state agency.

A five member board of directors appointed by the Governor established direction and policy for the company and appoints the company president. While SAIF operates similar to other workers' compensation insurance companies, it has a unique mission - to provide economic advantage to Oregon by keeping workers' compensation insurance costs as low as possible while paying fair and consistent benefits to injured workers. **SAIF is not supported by tax dollars.** Its only income is premiums paid by customers and investment returns on the funds set aside to pay benefits to injured workers.

Employers pay premiums to SAIF. In return, SAIF pays benefits to workers who suffer compensable job-related injuries or diseases. These benefits include wage loss payments, (time loss) medical benefits, and permanent disability and or death benefits. These benefit levels are established by the Oregon Legislature and are the same for all insurance companies.

SAIF also offers its customers a variety of services, including claims management, marketing, underwriting, vocational rehabilitation, return to work, investigation, loss control, industrial hygiene and legal representation.

SAIF is a **very important** item for new employers. **RATES ARE HIGH!!** Small business and new businesses generally fall into the **high risk** area even if they only have one part time office person employed. SAIF generally refers small businesses to

Associated Oregon Industries (AOI)
AOI Compwise

The program is available to businesses who have annual premiums of less than \$2,500 and are not experience rated. Generally, the minimum coverage is \$500 per year.

SAIF

LIABILITY COVERAGE

\$100,000 per accident and \$100,000 per occupational disease
Aggregate limit of \$500,000 for damages

Covers **Oregon workers** working temporarily in another state provided that the other state agrees to recognize the Oregon coverage

Workers hired in another state are **not** covered and neither are workers hired in Oregon **specifically** for out of state jobs.

NON SUBJECT WORKERS

- ✓ A worker performing domestic duties, including home health care workers with a private party in a private home
- ✓ A worker employed to do gardening, maintenance, repair, remodel, or similar work in or about the private home of employer
- ✓ A sole proprietor of an independent business
- ✓ A partner in an independent business who is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or additions to it.
- ✓ An officer of a corporation that operates as an independent business who is a director and has substantial ownership interests in the corporation.
- ✓ Corporations in the timber harvest and construction industries are authorized to have only two exempt officers or one exempt officer for each 10 corporate employees whichever is greater.
- ✓ If all the officers are members of the same family, there is no numerical limit to the number of officers eligible for exemption.
- ✓ If the corporation is doing work subject to the U S Longshore and Harbor workers compensation act - none are exempt.
- ✓ A family member identified as a director in corporate by laws of a corporation whose business is conducted on land that receives farm use tax assessments, regardless of ownership interests.
- ✓ A newspaper carrier who is a minor and who meets specific criteria.
- ✓ A person who furnishes, maintains and operates motor vehicles, used to transport logs poles, piling, rocks, gravel, sand, dirt or asphalt concrete.
- ✓ **A foster parent or adult foster care provider or their employees meeting certification requirements while performing foster parent duties.**

SAIF

CORPORATE OFFICERS

In general, **an officer** is **not** required to have coverage if he/she meets the following three tests:

- ★ Occupies a named officer position authorized by the by laws
- ★ Is on the board of directors
- ★ Owns either 10 percent or more of the stock or a percentage equal to the average stock holding

Failure to meet **all three** tests means the officer is automatically a subject worker and no election is required.

ELECTED COVERAGE

May **elect** to cover certain non-subject workers

- ✓ Sole proprietors and partners
(except partners working directly in construction)
Assumed wage is set
- ✓ Corporate officers may elect to be covered.

CHANGES IN BUSINESS STRUCTURE AND OPERATIONS

Can affect coverage and cost of insurance
Coverage may end and a new policy be required
Premiums may increase or decrease because of the change

Cancellations- 30 days written notice required

Ownership change - partner dropped or added or change in ownership may terminate coverage

Going out of business - notify SAIF of exact date business ceases and indicate whether coverage should be continued for the next business venture.

Default cancellation - SAIF cancels coverage 30 days after a formal demand for unpaid premiums or nonpayment of a required deposit.

DEPOSITS / ADVANCE PAYMENT OF PAYROLL PREMIUM

If SAIF requires a deposit or advance payment of premium, the effective date of coverage may be postponed until payment is received.

SAIF

RECORD KEEPING

Daily verifiable time records are required to be kept.

RATES

Rates are based on job classifications and applied to each \$100 of subject wages

EXPERIENCE RATE

Base rate for each classification is adjusted to reflect the experience rating modification and any other premium modification that may apply to an account.

STATE OF OREGON ASSESSMENTS

Assessments for the Department of Consumer and Business Services:
at 4.5 percent premium assessment on the employer's standard premium.

AMENDED PAYROLL REPORTS

Make a copy of the report, mark it "amended" and indicate changes

Mail to

Customer Policy Services
SAIF Corporation
P O Box 14230
Salem, OR 97309-5061

SAIF

SUBJECT PAY

- ★ Base pay
- ★ Bonus pay - anticipated by the employee. Frequency of bonus payments and the amount of the bonus in relation to wages may be used to determine the employees anticipation of a bonus. Anticipated bonuses should be reported even though the amount may not be know in advance of payment.
- ★ Bonuses paid to corporate officers with ownership interest are anticipated and considered subject payroll
- ★ Commission pay
- ★ Labor portion of contracts/subcontractors - unless it meets the exclusion outlined in subcontractor rules
- ★ Piece work pay
- ★ Incentive pay
- ★ Overtime pay (at the traditional overtime rate of pay) at straight time rate
- ★ Shift differential pay
- ★ Standby pay and/or idle time pay
- ★ Assumed wages - when notified by SAIF
- ★ Travel pay
- ★ Holiday pay (including any personal holidays, birthdays, anniversaries)
- ★ Sick leave pay including maternity
- ★ Value or exchange labor
- ★ Pay for jury duty
- ★ Pay of subject corporate officers refers to corporate officers who:
 - Are not on a corporation's board of directors and/or do not own at least 10% of the issued corporate stock or an ownership percentage equal to or greater than the average ownership of all shareholders.
 - OR** Are not members of the same family, and are not identified as directors in the bylaws of a corporation, whose activities are conducted on land receiving farm use tax assessments
 - OR** Are officers of a timber harvest or construction corporation who are not designated as exempt officers.
 - OR** Are officers of a limited liability Corporation (LLC) who are not designated as exempt members.
- ★ Pay of subject owners who:
 - Have voluntarily elected coverage
 - OR** Are subject by law, and not eligible for exemption
- ★ FMV of houses or apartments provided including housing allowance pay
- ★ Value of other lodging (not houses or apartments) and/or meals provided to extent shown in records
- ★ Wages paid to children and family members
- ★ Payments to cafeteria plans, flexible benefit plans and zero reimbursement accounts
- ★ Payments to IRAs
- ★ Davis - Bacon prevailing wage payments (exempt for amounts paid directly to an irrevocable federally-approved third party pension trust fund)
- ★ Payment or allowance for hand tools or power tools used by hand provided by employees either
 - Directly or through a third party and used in their work or operation for the insured
 - Except power saws supplied on a logging contract**
- ★ **Personal household employees paid through a corporate payroll.**

SAIF

EXCLUDED PAYROLL

- ★ Tips and other gratuities
- ★ Excess overtime pay - the portion of the traditional overtime rate which is in excess of straight time rate
- ★ Severance pay - unless for time work
- ★ Bonus pay - only if bonuses are not anticipated and which are paid at the sole discretion of the employer and less than 3 time per year
- ★ Vacation pay (not holiday pay or sick pay)
- ★ Profit sharing pay (written agreement)
- ★ Verifiable reimbursement for certain expenses such as meals and lodging incurred in conduct of employees job performance
- ★ Value of special rewards for individual invention or discovery
- ★ Pay of sole proprietors, non subject limited liability company member, non subject partners, or non subject corporate officers
- ★ Pay in excess of the specified maximum for corporate officers/LLC members who **are** covered
- ★ Pay for personal household employees (domestics) unless their coverage has been endorsed or paid within a corporate payroll
- ★ Workers' compensation safety bonuses that are based on safe working practices. These bonuses must be anticipated, paid over and above any employee's normal rate of pay and be part of a written plan to encourage safety.
- ★ Group pension and health/life premiums paid by the employer (if paid by the employee, it is subject.
- ★ Pay of workers who are employed under the Preferred Worker Program if the contract began after July 1, 1990.
- ★ Amounts reported for tax purposes for personal use of company car, or disability insurance.
- ★ Third party sick pay / disability insurance
- ★ Uniform allowances
- ★ **Saw rent - not to exceed 20% of total amount paid**
(Remember - this is for SAIF, not for taxable wages!!)

LONGSHORE AND HARBOR WORKERS ACT RULES ARE SPECIAL RULES.

SAIF

CONTRACTORS OR SUBCONTRACTORS

Payments are **reportable wages except** under following circumstances:

- ★ When contractor employs others and has his own coverage in effect before work begins under the contract.
- ▶ When contractor performs construction work and is registered with the Construction Contractors Board
- ▶ When contractor works without the assistance of others and meets commonly accepted court tests for independent contractors
- ▶ When a contractor, with or without assistants, does a job that is not normally part of the prime contractor's general task.

Example: Restaurant owner who contracts with a person to install kitchen equipment is not responsible for the insuring of the subcontractor or any assistants.

LEASED EMPLOYEES

Employees leased from labor agencies are considered to have dual employers

Coverage can be provided by the agency under certain conditions but if client employers have their own policy, they are required to cover lease workers and pay the premiums

Regardless of which party pays the premiums, the premiums will be based on the **client's** experience rating.

Temporary workers provided by agencies are **not** affected by this requirement.

CERTIFICATES OF INSURANCE

To insure that sub contracts are providing workers' compensation insurance on their subject workers, coverage should be verified with the subcontractor's insurer, even if a policy number is provided. If they are covered by SAIF, you may verify by contacting the SAIF office in your area. You will need contractors legal business name and policy number if available. If covered by another insurer, or you do not know the insurer's name, you may verify coverage by contacting the Dept of Consumer and Business Services coverage registration section in Salem at 503-945-7886.

Benefits, reporting the accident or disability, investigating the claim - are all important phases the employer should become aware of but are not considered "Payroll Taxes" and are not covered in this course.

WASHINGTON STATE

WORKERS' COMPENSATION

Washington employers, with few exceptions, are required to have workers' compensation coverage protection for work-related injuries and illnesses. Industrial insurance is not supported by general revenue taxes. It is financed by premiums paid by employers and employees.

EMPLOYER

Any person, body of persons, corporate or otherwise and legal representatives of a deceased employer, all while engaged in the state of Washington in any work covered by the provisions of Workmens compensation, by way of trade or business, or who contracts with one or more workers, the essence of which is personal labor of such worker or workers.

WORKER

Every person in the Sate of Washington who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment.

Every person who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment

Provided that a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.

CONTRACT ENTERTAINERS

If sign a contract with entertainer for specific engagement and the person performs no other services, he or she is not considered your employee under industrial insurance rules.

If contract is with the leader of the group, leader is required to provide coverage. However, if leader does not provide coverage, the contractor can be held liable for the premiums.

WASHINGTON STATE WORKERS' COMPENSATION

CONTRACTORS IN BUILDING CONSTRUCTION INDUSTRY

Some contractors may not be considered employers if they meet the following requirements:

Contractor registered under Chapter 18.27 RCW or licensed under Chapter 19.28 RCW is not an employer when:

- ★ Contracting with any other person, firm, or corporation Currently engaging in a business which is registered under Chapter 18.27 RCW or licensed under Chapter 19.28RCW:
- ★ The person, firm or corporation works from a principal place of business that qualifies for a business deduction under IRS tax laws other than that furnished by the prime contractor for which the person, firm, or corporation has contracted to provide services
- ★ The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business
- ★ The work which the person, firm, or corporation has contracted to perform is:
 - ▶ The work of a contractor as defined in RCW 18.27.010 or
 - ▶ The work of installing wires or equipment To convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in Chapter 19.28 RCW

As a general rule, if contractor supervises the work of others or controls the means to accomplish the job, this may be considered an employer/employee relationship which may require coverage under the State of Washington industrial insurance program.

You are legally responsible for payment of premiums due if someone under contract with you to perform a job fails to pay required industrial insurance premiums on his or her employees performing the work.

CALIFORNIA EMPLOYMENT TAX

California Unemployment tax is based upon wages paid for employment in California

California is one of the few states which also levies a tax on **employees**

The employees tax goes into a special fund for disability rather than unemployment benefits.

Payment of the employee's tax may be avoided entirely where there is a private plan for disability benefits which meets the requirements of the law.

If employee works for more than one employer during the year, he may obtain a refund of excess withholding on the maximum wages limits. This credit is allowed on the **individual income tax return.**

2009

Form W-4 (2009)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. If you are exempt, complete **only** lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2009 expires February 16, 2010. See Pub. 505, Tax Withholding and Estimated Tax.

Note. You cannot claim exemption from withholding if (a) your income exceeds \$950 and includes more than \$300 of unearned income (for example, interest and dividends) and (b) another person can claim you as a dependent on their tax return.

Basic instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 further adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-earner/multiple job situations.

Complete all worksheets that apply. However, you may claim fewer (or zero) allowances. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

Head of household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See Pub. 501, Exemptions, Standard Deduction, and Filing Information, for information.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 919, How Do I Adjust My Tax Withholding, for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or

dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax. If you have pension or annuity income, see Pub. 919 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners or multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others. See Pub. 919 for details.

Nonresident alien. If you are a nonresident alien, see the Instructions for Form 8233 before completing this Form W-4.

Check your withholding. After your Form W-4 takes effect, use Pub. 919 to see how the amount you are having withheld compares to your projected total tax for 2009. See Pub. 919, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Personal Allowances Worksheet (Keep for your records.)

A	Enter "1" for yourself if no one else can claim you as a dependent	A	_____		
B	Enter "1" if: <table border="0" style="display: inline-table; vertical-align: middle;"> <tr> <td style="font-size: 3em; vertical-align: middle;">{</td> <td> <ul style="list-style-type: none"> • You are single and have only one job; or • You are married, have only one job, and your spouse does not work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less. </td> </tr> </table>	{	<ul style="list-style-type: none"> • You are single and have only one job; or • You are married, have only one job, and your spouse does not work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less. 	B	_____
{	<ul style="list-style-type: none"> • You are single and have only one job; or • You are married, have only one job, and your spouse does not work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less. 				
C	Enter "1" for your spouse . But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.)	C	_____		
D	Enter number of dependents (other than your spouse or yourself) you will claim on your tax return	D	_____		
E	Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above)	E	_____		
F	Enter "1" if you have at least \$1,800 of child or dependent care expenses for which you plan to claim a credit	F	_____		
(Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)					
G	Child Tax Credit (including additional child tax credit). See Pub. 972, Child Tax Credit, for more information. <ul style="list-style-type: none"> • If your total income will be less than \$61,000 (\$90,000 if married), enter "2" for each eligible child; then less "1" if you have three or more eligible children. • If your total income will be between \$61,000 and \$84,000 (\$90,000 and \$119,000 if married), enter "1" for each eligible child plus "1" additional if you have six or more eligible children. 	G	_____		
H	Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.) ▶	H	_____		
For accuracy, complete all worksheets that apply. <table border="0" style="display: inline-table; vertical-align: middle;"> <tr> <td style="font-size: 3em; vertical-align: middle;">{</td> <td> <ul style="list-style-type: none"> • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2. • If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$25,000 if married), see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld. • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below. </td> </tr> </table>				{	<ul style="list-style-type: none"> • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2. • If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$25,000 if married), see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld. • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.
{	<ul style="list-style-type: none"> • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2. • If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$25,000 if married), see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld. • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below. 				

----- Cut here and give Form W-4 to your employer. Keep the top part for your records. -----

Form W-4 Department of the Treasury Internal Revenue Service	<h2 style="margin: 0;">Employee's Withholding Allowance Certificate</h2> <p style="margin: 0;">▶ Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.</p>	OMB No. 1545-0074 2009
1 Type or print your first name and middle initial. Last name		2 Your social security number
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.
City or town, state, and ZIP code		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. ▶ <input type="checkbox"/>
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 _____ 6 \$ _____
7 I claim exemption from withholding for 2009, and I certify that I meet both of the following conditions for exemption. <ul style="list-style-type: none"> • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here ▶		7 _____
Under penalties of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.		
Employee's signature (Form is not valid unless you sign it.) ▶		Date ▶
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		9 Office code (optional) 10 Employer identification number (EIN)

Deductions and Adjustments Worksheet

Note. Use this worksheet *only* if you plan to itemize deductions, claim certain credits, adjustments to income, or an additional standard deduction

1 Enter an estimate of your 2009 itemized deductions. These include qualifying home mortgage interest, charitable contributions, state and local taxes, medical expenses in excess of 7.5% of your income, and miscellaneous deductions. (For 2009, you may have to reduce your itemized deductions if your income is over \$166,800 (\$83,400 if married filing separately). See *Worksheet 2* in Pub. 919 for details.) . . . **1** \$ _____

2 Enter: $\left\{ \begin{array}{l} \$11,400 \text{ if married filing jointly or qualifying widow(er)} \\ \$ 8,350 \text{ if head of household} \\ \$ 5,700 \text{ if single or married filing separately} \end{array} \right\}$ **2** \$ _____

3 **Subtract** line 2 from line 1. If zero or less, enter “-0-” **3** \$ _____

4 Enter an estimate of your 2009 adjustments to income and any additional standard deduction. (Pub. 919) **4** \$ _____

5 **Add** lines 3 and 4 and enter the total. (Include any amount for credits from *Worksheet 8* in Pub. 919.) **5** \$ _____

6 Enter an estimate of your 2009 nonwage income (such as dividends or interest) **6** \$ _____

7 **Subtract** line 6 from line 5. If zero or less, enter “-0-” **7** \$ _____

8 **Divide** the amount on line 7 by \$3,500 and enter the result here. Drop any fraction **8** _____

9 Enter the number from the **Personal Allowances Worksheet**, line H, page 1 **9** _____

10 **Add** lines 8 and 9 and enter the total here. If you plan to use the **Two-Earners/Multiple Jobs Worksheet**, also enter this total on line 1 below. Otherwise, **stop here** and enter this total on Form W-4, line 5, page 1 **10** _____

Two-Earners/Multiple Jobs Worksheet (See *Two earners or multiple jobs* on page 1.)

Note. Use this worksheet *only* if the instructions under line H on page 1 direct you here.

1 Enter the number from line H, page 1 (or from line 10 above if you used the **Deductions and Adjustments Worksheet**) **1** _____

2 Find the number in **Table 1** below that applies to the **LOWEST** paying job and enter it here. **However**, if you are married filing jointly and wages from the highest paying job are \$50,000 or less, do not enter more than “3.” **2** _____

3 If line 1 is **more than or equal to** line 2, subtract line 2 from line 1. Enter the result here (if zero, enter “-0-”) and on Form W-4, line 5, page 1. **Do not** use the rest of this worksheet **3** _____

Note. If line 1 is *less than* line 2, enter “-0-” on Form W-4, line 5, page 1. Complete lines 4–9 below to calculate the additional withholding amount necessary to avoid a year-end tax bill.

4 Enter the number from line 2 of this worksheet **4** _____

5 Enter the number from line 1 of this worksheet **5** _____

6 **Subtract** line 5 from line 4 **6** _____

7 Find the amount in **Table 2** below that applies to the **HIGHEST** paying job and enter it here **7** \$ _____

8 **Multiply** line 7 by line 6 and enter the result here. This is the additional annual withholding needed **8** \$ _____

9 Divide line 8 by the number of pay periods remaining in 2009. For example, divide by 26 if you are paid every two weeks and you complete this form in December 2008. Enter the result here and on Form W-4, line 6, page 1. This is the additional amount to be withheld from each paycheck **9** \$ _____

Table 1

Table 2

Married Filing Jointly		All Others		Married Filing Jointly		All Others	
If wages from LOWEST paying job are—	Enter on line 2 above	If wages from LOWEST paying job are—	Enter on line 2 above	If wages from HIGHEST paying job are—	Enter on line 7 above	If wages from HIGHEST paying job are—	Enter on line 7 above
\$0 - \$4,500	0	\$0 - \$6,000	0	\$0 - \$65,000	\$550	\$0 - \$35,000	\$550
4,501 - 9,000	1	6,001 - 12,000	1	65,001 - 120,000	910	35,001 - 90,000	910
9,001 - 18,000	2	12,001 - 19,000	2	120,001 - 185,000	1,020	90,001 - 165,000	1,020
18,001 - 22,000	3	19,001 - 26,000	3	185,001 - 330,000	1,200	165,001 - 370,000	1,200
22,001 - 26,000	4	26,001 - 35,000	4	330,001 and over	1,280	370,001 and over	1,280
26,001 - 32,000	5	35,001 - 50,000	5				
32,001 - 38,000	6	50,001 - 65,000	6				
38,001 - 46,000	7	65,001 - 80,000	7				
46,001 - 55,000	8	80,001 - 90,000	8				
55,001 - 60,000	9	90,001 - 120,000	9				
60,001 - 65,000	10	120,001 and over	10				
65,001 - 75,000	11						
75,001 - 95,000	12						
95,001 - 105,000	13						
105,001 - 120,000	14						
120,001 and over	15						

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. The Internal Revenue Code requires this information under sections 3402(f)(2)(A) and 6109 and their regulations. Failure to provide a properly completed form will result in your being treated as a single person who claims no withholding allowances; providing fraudulent information may also subject you to penalties. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws, and using it in the National Directory of New Hires. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

Form W-4 (2010)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. If you are exempt, complete **only** lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2010 expires February 16, 2011. See Pub. 505, Tax Withholding and Estimated Tax.

Note. You cannot claim exemption from withholding if (a) your income exceeds \$950 and includes more than \$300 of unearned income (for example, interest and dividends) and (b) another person can claim you as a dependent on his or her tax return.

Basic instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 further adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-earners/multiple jobs situations.

Complete all worksheets that apply. However, you may claim fewer (or zero) allowances. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

Head of household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See Pub. 501, Exemptions, Standard Deduction, and Filing Information, for information.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 919, How Do I Adjust My Tax Withholding, for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax

payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax. If you have pension or annuity income, see Pub. 919 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners or multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others. See Pub. 919 for details.

Nonresident alien. If you are a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.

Check your withholding. After your Form W-4 takes effect, use Pub. 919 to see how the amount you are having withheld compares to your projected total tax for 2010. See Pub. 919, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Personal Allowances Worksheet (Keep for your records.)

A Enter "1" for **yourself** if no one else can claim you as a dependent **A** _____

B Enter "1" if: } **B** _____

- You are single and have only one job; or
- You are married, have only one job, and your spouse does not work; or
- Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less.

C Enter "1" for your **spouse**. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.) **C** _____

D Enter number of **dependents** (other than your spouse or yourself) you will claim on your tax return **D** _____

E Enter "1" if you will file as **head of household** on your tax return (see conditions under **Head of household** above) **E** _____

F Enter "1" if you have at least \$1,800 of **child or dependent care expenses** for which you plan to claim a credit **F** _____

(Note. Do **not** include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)

G Child Tax Credit (including additional child tax credit). See Pub. 972, Child Tax Credit, for more information.

- If your total income will be less than \$61,000 (\$90,000 if married), enter "2" for each eligible child; then **less** "1" if you have three or more eligible children.
- If your total income will be between \$61,000 and \$84,000 (\$90,000 and \$119,000 if married), enter "1" for each eligible child plus "1" **additional** if you have six or more eligible children. **G** _____

H Add lines A through G and enter total here. **(Note.** This may be different from the number of exemptions you claim on your tax return.) ► **H** _____

For accuracy, **complete all worksheets that apply.** }

- If you plan to **itemize or claim adjustments to income** and want to reduce your withholding, see the **Deductions and Adjustments Worksheet** on page 2.
- If you have **more than one job** or are **married and you and your spouse both work** and the combined earnings from all jobs exceed \$18,000 (\$32,000 if married), see the **Two-Earners/Multiple Jobs Worksheet** on page 2 to avoid having too little tax withheld.
- If **neither** of the above situations applies, **stop here** and enter the number from line H on line 5 of Form W-4 below.

----- Cut here and give Form W-4 to your employer. Keep the top part for your records. -----

Form W-4 Department of the Treasury Internal Revenue Service	<h2 style="margin: 0;">Employee's Withholding Allowance Certificate</h2> <p style="margin: 0;">► Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.</p>	OMB No. 1545-0074 2010
1 Type or print your first name and middle initial. Last name		2 Your social security number
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.
City or town, state, and ZIP code		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. ► <input type="checkbox"/>
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 _____ 6 \$ _____
6 Additional amount, if any, you want withheld from each paycheck		
7 I claim exemption from withholding for 2010, and I certify that I meet both of the following conditions for exemption. <ul style="list-style-type: none"> • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here ► 7		
Under penalties of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.		
Employee's signature (Form is not valid unless you sign it.) ►		Date ►
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		9 Office code (optional) 10 Employer identification number (EIN)

Deductions and Adjustments Worksheet

Note. Use this worksheet *only* if you plan to itemize deductions or claim certain credits or adjustments to income.

- 1 Enter an estimate of your 2010 itemized deductions. These include qualifying home mortgage interest, charitable contributions, state and local taxes, medical expenses in excess of 7.5% of your income, and miscellaneous deductions **1** \$ _____
- 2 Enter:

{	\$11,400 if married filing jointly or qualifying widow(er)	}	2	\$ _____
	\$8,400 if head of household				
	\$5,700 if single or married filing separately				
- 3 **Subtract** line 2 from line 1. If zero or less, enter “-0-” **3** \$ _____
- 4 Enter an estimate of your 2010 adjustments to income and any additional standard deduction. (Pub. 919) **4** \$ _____
- 5 **Add** lines 3 and 4 and enter the total. (Include any amount for credits from *Worksheet 6* in Pub. 919.) **5** \$ _____
- 6 Enter an estimate of your 2010 nonwage income (such as dividends or interest) **6** \$ _____
- 7 **Subtract** line 6 from line 5. If zero or less, enter “-0-” **7** \$ _____
- 8 **Divide** the amount on line 7 by \$3,650 and enter the result here. Drop any fraction **8** _____
- 9 Enter the number from the **Personal Allowances Worksheet**, line H, page 1 **9** _____
- 10 **Add** lines 8 and 9 and enter the total here. If you plan to use the **Two-Earners/Multiple Jobs Worksheet**, also enter this total on line 1 below. Otherwise, **stop here** and enter this total on Form W-4, line 5, page 1 **10** _____

Two-Earners/Multiple Jobs Worksheet (See *Two earners or multiple jobs* on page 1.)

Note. Use this worksheet *only* if the instructions under line H on page 1 direct you here.

- 1 Enter the number from line H, page 1 (or from line 10 above if you used the **Deductions and Adjustments Worksheet**) **1** _____
- 2 Find the number in **Table 1** below that applies to the **LOWEST** paying job and enter it here. **However**, if you are married filing jointly and wages from the highest paying job are \$65,000 or less, do not enter more than “3.” **2** _____
- 3 If line 1 is **more than or equal to** line 2, subtract line 2 from line 1. Enter the result here (if zero, enter “-0-”) and on Form W-4, line 5, page 1. **Do not** use the rest of this worksheet **3** _____

Note. If line 1 is **less than** line 2, enter “-0-” on Form W-4, line 5, page 1. Complete lines 4–9 below to figure the additional withholding amount necessary to avoid a year-end tax bill.

- 4 Enter the number from line 2 of this worksheet **4** _____
- 5 Enter the number from line 1 of this worksheet **5** _____
- 6 **Subtract** line 5 from line 4 **6** _____
- 7 Find the amount in **Table 2** below that applies to the **HIGHEST** paying job and enter it here **7** \$ _____
- 8 **Multiply** line 7 by line 6 and enter the result here. This is the additional annual withholding needed **8** \$ _____
- 9 Divide line 8 by the number of pay periods remaining in 2010. For example, divide by 26 if you are paid every two weeks and you complete this form in December 2009. Enter the result here and on Form W-4, line 6, page 1. This is the additional amount to be withheld from each paycheck **9** \$ _____

Table 1

Table 2

Married Filing Jointly		All Others		Married Filing Jointly		All Others	
If wages from LOWEST paying job are—	Enter on line 2 above	If wages from LOWEST paying job are—	Enter on line 2 above	If wages from HIGHEST paying job are—	Enter on line 7 above	If wages from HIGHEST paying job are—	Enter on line 7 above
\$0 - \$7,000 -	0	\$0 - \$6,000 -	0	\$0 - \$65,000	\$550	\$0 - \$35,000	\$550
7,001 - 10,000 -	1	6,001 - 12,000 -	1	65,001 - 120,000	910	35,001 - 90,000	910
10,001 - 16,000 -	2	12,001 - 19,000 -	2	120,001 - 185,000	1,020	90,001 - 165,000	1,020
16,001 - 22,000 -	3	19,001 - 26,000 -	3	185,001 - 330,000	1,200	165,001 - 370,000	1,200
22,001 - 27,000 -	4	26,001 - 35,000 -	4	330,001 and over	1,280	370,001 and over	1,280
27,001 - 35,000 -	5	35,001 - 50,000 -	5				
35,001 - 44,000 -	6	50,001 - 65,000 -	6				
44,001 - 50,000 -	7	65,001 - 80,000 -	7				
50,001 - 55,000 -	8	80,001 - 90,000 -	8				
55,001 - 65,000 -	9	90,001 -120,000 -	9				
65,001 - 72,000 -	10	120,001 and over	10				
72,001 - 85,000 -	11						
85,001 -105,000 -	12						
105,001 -115,000 -	13						
115,001 -130,000 -	14						
130,001 - and over	15						

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You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.