

IDAPA Rule added to I.C. §72-1328

IDAPA 09.01.35

061.DEFINITIONS.

The definitions listed in IDAPA 09.01.35, “Unemployment Insurance Tax Administration Rules,” Section 011, and the following are applicable to the UI Compliance Bureau.

02.Wages. The term “wages” includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. “Wages” in covered employment, and subject to unemployment insurance reporting, include, but are not limited to:

- a.Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services;
- b.Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production;
- c.Commissions for past services in covered employment;
- d.Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation;
- e.Salary advances against commissions;
- f.All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code;
- g.Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer;
- h.Vacation or “idle-time” pay, no matter when paid;
- i.Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent.
- j.The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Section 72- 1328, Idaho Code.

03.Exclusions From Wages. The term “wages” described in Section 72-1328, Idaho Code, does not include the following:

- a.Prizes or gifts for special occasions which are expressions of good will;

- b. Bonuses paid for signing a contract;
- c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size;
- d. Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship;
- e. Rental charge for personal equipment provided by the employee on the job: if
 - i. There is a rental agreement; and
 - ii. The worker has received a reasonable wage for services performed; and
 - iii. The fees are held separately on the employer's records.
- f. Stock or membership interests issued for purposes other than services performed or to be performed
- g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them:
 - i. To have paid or incurred reasonable job related expenses while performing services employees; and
 - ii. To account adequately to the employer for these expenses; and
 - iii. To return any excess reimbursement or allowance.
- h. Payments for employee travel expenses, provided:
 - i. Payments are job related expenses while performing services; and
 - ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and
 - iii. Records for days of travel pertaining to per diem payments are verifiable.
- i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes.
- j. Noncash payment to farmworkers. Noncash payments for farm work will be excluded from

wages if they are “de minimis” in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Section 72-1328, Idaho Code.

k. Payments of any kind by a partnership to its partner or by a sole proprietorship to its owner.