



# Employer, Employee, and Wages

Definitions as they pertain to Oregon Employment Department Law.

## EMPLOYER

An employing unit which pays wages of \$225 or more in a calendar quarter or employs one or more individuals in any part of 18 separate weeks during any calendar year. Agricultural and domestic employers have different guidelines.

## EMPLOYEE

Any individual, including aliens and minors, who is employed for any compensation or under any contract of hire by an employer. This includes contract, casual, or temporary labor. Corporate officers are considered employees of the corporation, even if they “own” the corporation.

## WAGES

Payments made to an individual for their personal services and the cash value of all compensation paid to that individual in any medium other than cash.

Unless specifically excluded in ORS Chapter 657, wages include, but are not limited to, the following: salaries, hourly pay, piece rate, or payments by the job; vacation, sick, holiday, disability, and guaranteed wage payments; commissions, dividends, distributions, bonuses, gifts, fees, prizes, and tips.

Examples of payments that should be reported as wages are:

- Dismissal and Separation allowances - regardless of whether the allowance is paid in a lump sum or in installments.
- Corporate Officer and Shareholder pay - dividends, distributions, and draws are wages to the extent that they are reasonable compensation for services provided to the corporation.
- Sickness and accident disability payments - note exceptions and exclusions.
- Compensation other than cash - the value or the prevailing value in the community of lodging, meals, and free rent (including utilities) provided by the employer.
- Fringe Benefits provided or paid for by the employer on behalf of employees and their dependents such as:
  - ❑ Company vehicles used by the employee to commute to and from work or for personal use.
  - ❑ Company paid parking.
  - ❑ Sick pay by third party payers (e.g., insurance companies).
  - ❑ Dependent care assistance.
- Commissions including:
  - ❑ Property Management
  - ❑ Mobile home sales where land is not included, such as in a mobile home park.

## Exceptions and Exclusions

- Sickness and accident disability payments made under workers’ compensation law, those paid from employee funded plans, or those paid after the end of six months after the employee last worked for the employer.
- Commissions paid on the following specific services:
  - ❑ Newspaper advertising salesperson
  - ❑ Real estate broker or principal real estate broker
  - ❑ Insurance solicitor or producer
  - ❑ Securities agent or salesperson
  - ❑ Individuals soliciting contracts for home improvements.
  - ❑ Door-to-door sales of consumer goods in the home.

- Closely held family corporations may elect to exclude from unemployment insurance corporate officers who are directors, stockholders and family members, and who have substantial ownership in the corporation. Those eligible for the exclusion must represent two or more members of the same family and who each bear one of the following relationships to one of the others: parents, stepparents, grandparents, spouses, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren, adopted children or grandchildren.

To qualify for the family corporate officer exclusion, an election must be made in writing to the Employment Department. If approved, the election will be effective the first day of the quarter in which the election was sent. This exclusion form can be found on our tax web site at ([findit.emp.state.or.us/tax/FormS95.pdf](http://findit.emp.state.or.us/tax/FormS95.pdf)).<sup>\*</sup> We will notify the employer in writing whether the election is approved or denied.

Excluded family corporate officers are still subject to the Federal Unemployment Tax Act (FUTA) and higher FUTA rates may be required on those individuals.

## WHEN TO REPORT WAGES

For Oregon unemployment tax purposes, **wages, including draws, are reported in the quarter paid, or in the quarter the individual received any remuneration other than cash.** The hours worked are reported in the quarter that they are actually worked.

## EMPLOYER PAYROLL RECORDS

Every employing unit shall maintain payroll records of individuals performing service for it. The records must include the total payroll by calendar quarter, and the name, social security number, the number of hours worked, the pay for each pay period, and the totals by calendar quarter of each individual.

<sup>\*</sup>You can view this file with the [Adobe Acrobat Reader](#), available free.

## QUESTIONS

If you have questions or need additional information, please contact the Employment Department tax representative in your area or call 503-947-1488; TDD/Nonvoice Users 711 or by email at [taxinfo@emp.state.or.us](mailto:taxinfo@emp.state.or.us) You may also visit our web site at [www.WorkingInOregon.org/tax](http://www.WorkingInOregon.org/tax)

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