



NYCIRB

New York Compensation
Insurance Rating Board
733 Third Avenue
New York, NY 10017
Tel: (212) 697-3535

May 3, 2019

R.C. 2483

Re: New York Workers' Compensation and Employers' Liability Manual
Prevailing Wage Laws – Supplemental Wage Payments
Effective Date: June 1, 2019

Members of the Rating Board:

I write to inform you that the New York State Department of Financial Services (“DFS”) approved an amendment to the Rating Board’s New York Workers’ Compensation and Employers’ Liability Manual (“Manual”), which is detailed herein, attached hereto, and is effective on June 1, 2019.

Specifically, DFS approved the Rating Board’s filing to clarify how supplemental wage payments should be treated in connection with Davis-Bacon wages or wages from a similar prevailing wage law.

By way of brief background, and as explained in R.C. Bulletin 2478 “Prevailing Wage Laws – Supplemental Wage Payments” issued on January 28, 2019, in some instances, employers provide employees with supplemental wages in lieu of providing health insurance, a retirement plan, or similar employee benefits, to provide employees with funds to purchase these benefits.

As is set forth in the Manual, when supplemental wages are paid directly to the employee, these wages are to be treated as remuneration for the purpose of calculating an employer’s workers’ compensation policy premium. However, when an employer makes a direct payment to an employee benefit plan, such as a health insurance or retirement plan, these direct payments are to be excluded from remuneration.

The modified and final versions of Manual Page R-30, reflecting this approved change, is attached for your convenience.



As mentioned above, the above-described change is effective on June 1, 2019. If you have any questions or concerns, please do not hesitate to contact Mr. Mark Battistelli, Vice President of Underwriting Services, at (212) 697-3535, ext. 113 or at mbattistelli@nycirb.org.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JA", written over a light blue horizontal line.

Jeremy Attie
President and CEO

Enclosures

- k. The value of meals received by employees as part of their pay to the extent shown in the insured's records;
- l. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay. *Refer to Exclusions below for certain fringe benefits ["substitutes for money"] not considered to be remuneration;*
- m. Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125) which are made through employee authorized salary deductions from the employee's gross pay;
- ★ n. ~~Wages paid to employees as salary in conjunction with the~~ Davis-Bacon wages or wages from a similar Act or other prevailing wage laws paid directly to an employee;
- o. Annuity plans;
- p. Expense reimbursements to employees to the extent that an employer's records do not substantiate that the expense was incurred as a valid business expense;

Note: When it can be verified that the employee was away from home on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 for each such day, will be permitted.
- q. Payment for filming of commercials excluding subsequent residuals which are earned by the commercial's participant(s) each time the commercial appears in print or is broadcast.

3. Exclusions

Remuneration excludes:

- a. Tips and other gratuities received by employees;
- b. Payments by an employer to group insurance or group pension plans for employees, other than payments covered by Rule V.B.2.f. and Rule V.B.2.m.;
- c. The value of special rewards for individual invention or discovery;
- d. Dismissal or severance payments except for time worked or accrued vacation;
- e. Reimbursed expenses and allowances paid to employees shall be excluded, provided all three of the following conditions are met:
 - (1) The expenses or allowances were incurred in the course of the employer's business;
 - (2) The amounts are shown separately for each employee in the employer's records;
 - (3) The amount of each expense reimbursement or allowance payment approximates the actual expenses incurred;

- k. The value of meals received by employees as part of their pay to the extent shown in the insured's records;
- l. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay. *Refer to Exclusions below for certain fringe benefits ["substitutes for money"] not considered to be remuneration;*
- m. Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125) which are made through employee authorized salary deductions from the employee's gross pay;
- ★ n. Davis-Bacon wages or wages from a similar prevailing wage law paid directly to an employee;
- o. Annuity plans;
- p. Expense reimbursements to employees to the extent that an employer's records do not substantiate that the expense was incurred as a valid business expense;

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