

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

**Rulemaking related to wages**

The Labor Services Division hereby rescinds Chapter 217, “Wage Payments,” and adopts a new Chapter 217, “Wages,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 91D.1.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Executive Order 10.

*Purpose and Summary*

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 217 that details tip income, kickbacks, and reasonable cost for purposes of minimum wage determination. This rulemaking removes 22 rules from the prior chapter.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8269C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

No one attended the public hearings.

Numerous comments asked for the rationale for deleting rules that are similar to federal rules. Iowa is not required to systematically mirror federal recordkeeping rules, and the Division believes Chapter 217 contains sufficient recordkeeping requirements without them.

A comment requested that the chapter make it clear that anything not covered is addressed in applicable federal law and regulations.

One change from the Notice has been made to include the following language in rule 875—217.1(91D): “Nothing in this chapter shall excuse any party from complying with any requirement imposed by any other federal, state, or local law, ordinance, regulation, or rule.”

*Adoption of Rulemaking*

This rulemaking was adopted by the Division on December 4, 2024.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 12, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 217 and adopt the following **new** chapter in lieu thereof:

CHAPTER 217  
WAGES

**875—217.1(91D) Purpose and scope.** This chapter addresses the definition of wages. Wages include the reasonable cost, as determined by the director, to an employer of furnishing any employee with board, lodging, or other facilities. Nothing in this chapter shall excuse any party from complying with any requirement imposed by any other federal, state, or local law, ordinance, regulation, or rule.

**875—217.2(91D) Reasonable cost.**

**217.2(1)** Reasonable cost is determined to be not more than the actual cost to the employer of the board, lodging, or other facilities furnished by the employer to the employees.

**217.2(2)** The cost of furnishing facilities found by the director to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not be included in computing wages.

**217.2(3)** The following is a list of facilities found by the director to be primarily for the benefit or convenience of the employer. The list is intended to be illustrative rather than exclusive:

- a. Tools of the trade and other materials and services incidental to carrying on the employer's business.
- b. The cost of any construction by and for the employer.
- c. The cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

SOURCE: 29 CFR 531.3.

**875—217.3(91D) Free and clear payment; kickbacks.** Whether in cash or in facilities, wages cannot be considered to have been paid by the employer and received by the employee unless they are paid finally and unconditionally or free and clear. The wage requirements will not be met where the employee kicks back directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee. This is true whether the kickback is made in cash or in other than cash.

SOURCE: 29 CFR 531.35.

**875—217.4(91D) General characteristics of tips.** A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. The payment is to be distinguished from payment of a charge, if any, made for the service. In the absence of an agreement to the contrary between the recipient and a third party, a tip becomes the property of the person in recognition of whose service it is presented by the customer. Only tips actually received by an employee as money belonging to that employee, which the employee may freely use absent of any control by the employer, may be

counted in determining whether the employee is a tipped employee and in applying the provisions that govern wage credits for tips.

SOURCE: 29 CFR 531.52.

**875—217.5(91D) Payments that constitute tips.** In addition to cash sums presented by customers that an employee keeps, tips received by an employee include amounts paid by bank check or other negotiable instrument payable at par and amounts transferred by the employer to the employee pursuant to directions from credit customers who designate amounts to be added to their bills as tips. Special gifts in forms other than money or its equivalent as above described, such as theater tickets, passes, or merchandise, are not counted as tips received by the employee for purposes of this chapter.

SOURCE: 29 CFR 531.53.

**875—217.6(91D) Tip pooling.** Where employees practice tip splitting, as where food servers give a portion of their tips to the bussers, both the amounts retained by the food servers and those given the bussers are considered tips of the individuals who retain them. Similarly, where an accounting is made to an employer for information only or in furtherance of a pooling arrangement whereby the employer redistributes the tips to the employees upon some basis to which they have mutually agreed among themselves, the amounts received and retained by each employee as the individual's own are counted as the employee's tips.

SOURCE: 29 CFR 531.54.

**875—217.7(91D) Dual jobs.** When an employee is employed in two occupations, no tip credit can be taken for hours of employment in the occupation for which the employee does not meet the tip qualification.

SOURCE: 29 CFR 531.56.

These rules are intended to implement Iowa Code chapter 91D.

[Filed 12/5/24, effective 2/12/25]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/8/25.