

CHAPTER 217

WAGES

[Prior to 11/4/98, see 347—Ch 217]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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.

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

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