

875—217.35(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.