

IC 22-4-4

Chapter 4. Remuneration, Wages, Wage Credits, and Previously Uncovered Services Defined

IC 22-4-4-1

Definitions; remuneration

Sec. 1. "Remuneration" whenever used in this article, unless the context clearly denotes otherwise, means all compensation for personal services, including but not limited to commissions, bonuses, dismissal pay, vacation pay, sick pay (subject to the provisions of section 2(b)(2) of this chapter) payments in lieu of compensation for services, and cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash may be estimated and determined in accordance with rules prescribed by the department. Such term shall not, however, include the value of meals, lodging, books, tuition, or educational facilities furnished to a student while such student is attending an established school, college, university, hospital, or training course for services performed within the regular school term or school year, including the customary vacation days or periods falling within such school term or school year.

(Formerly: Acts 1947, c.208, s.401; Acts 1955, c.317, s.1; Acts 1969, c.300, s.1.) As amended by P.L.144-1986, SEC.95; P.L.171-2016, SEC.3.

IC 22-4-4-2

Definitions; wages

Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars (\$7,000), has been paid in a

calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year that begins after December 31, 1982, and before January 1, 2011; or

(B) nine thousand five hundred dollars (\$9,500), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year that begins after December 31, 2010;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing

services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

(Formerly: Acts 1947, c.208, s.402; Acts 1951, c.295, s.2; Acts 1957, c.299, s.12; Acts 1967, c.310, s.5; Acts 1971, P.L.355, SEC.8.) As amended by Acts 1977, P.L.262, SEC.8; P.L.227-1983, SEC.1; P.L.20-1986, SEC.2; P.L.2-1987, SEC.28; P.L.21-1995, SEC.65; P.L.98-2005, SEC.1; P.L.175-2009, SEC.4; P.L.110-2010, SEC.23.

IC 22-4-4-3

Definitions; wage credits

Sec. 3. (a) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars (\$5,400) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(c) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars (\$5,800) and may not

include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(d) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 2002, and before July 1, 2003, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars (\$7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand two hundred sixteen dollars (\$8,216) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand seven hundred thirty-three dollars (\$8,733) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2005, and before July 1, 2012, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand two hundred fifty dollars (\$9,250) and may not

include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2012, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(Formerly: Acts 1947, c.208, s.403; Acts 1957, c.294, s.1; Acts 1959, c.97, s.1; Acts 1965, c.190, s.2; Acts 1967, c.310, s.6; Acts 1971, P.L.355, SEC.9; Acts 1973, P.L.240, SEC.2; Acts 1974, P.L.110, SEC.2.) As amended by Acts 1976, P.L.114, SEC.1; Acts 1977, P.L.262, SEC.9; Acts 1980, P.L.158, SEC.1; P.L.34-1985, SEC.3; P.L.171-1991, SEC.1; P.L.21-1995, SEC.66; P.L.259-1997(ss), SEC.1; P.L.30-2000, SEC.1; P.L.273-2003, SEC.1; P.L.2-2011, SEC.4.

IC 22-4-4-4

Previously uncovered services

Sec. 4. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work includes wages paid for previously uncovered services. For the purposes of this section, the term "previously uncovered services" means services:

- (1) which are not employment as defined in IC 22-4-8-1 and are not services covered pursuant to IC 22-4-9-5 at any time during the one (1) year period ending December 31, 1975; and
- (2)(A) which are agricultural labor as defined in IC 22-4-8-2(l) or domestic service as defined in IC 22-4-8-2(m); or
- (B) which are services performed by an employee of this state or a political subdivision of this state, as provided in IC 22-4-8-2(i), or by an employee of a not-for-profit educational institution which is not an eligible postsecondary educational institution, as provided in IC 22-4-8-2(j), except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of the services.

As added by Acts 1977, P.L.262, SEC.10. Amended by P.L.2-2007, SEC.290.