

341.030 "Wages" defined -- Impact of trust fund balance on taxable wage base amount.

- (1) As used in this chapter, unless the context clearly requires otherwise, and except as provided in subsections (2) to (7) of this section, "wages" means all remuneration for services, including commissions, bonuses, and, except for services performed in agriculture and domestic employment, the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commission.
- (2) Amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses, incurred on the business of the employing unit, constitute wages only to the extent of the excess of the amounts over the expenses actually incurred and accounted for by the worker to his employer; provided, however, that the cash value of meals and lodging when furnished to the worker for the convenience of the employer shall not constitute wages.
- (3) For purposes of this chapter, the term "wages" includes tips which are:
 - (a) Received while performing services which constitute employment;
 - (b) Included in a written statement furnished to the employer pursuant to Section 6053(a) of the Internal Revenue Code; and
 - (c) Shall be treated as having been paid by the employing unit.
- (4) "Wages" does not include the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employing unit that makes provision for its workers generally or for a class of its workers, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:
 - (a) Retirement;
 - (b) Sickness or accident disability but, in the case of payments made to an employee or any of his dependents, this subsection shall exclude from the term "wages" only payments which are received under a workers' compensation law;
 - (c) Medical and hospitalization expenses in connection with accident or sickness disability; or
 - (d) Death, if the worker has not:
 1. The option to receive, instead of provision for the death benefit, any part of the payment, or if the death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit; and
 2. The right, under the provisions of the plan or system or policy of insurance providing for the death benefit, to assign the benefit, or to receive a cash consideration in lieu of it either upon his withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of his employment with his

employing unit.

- (5) "Wages" does not include 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 employee after the expiration of six (6) calendar months following the last calendar month in which the employee worked for the employer.
- (6) "Wages" does not include the amount of any payment made by an employing unit without deduction from the remuneration of the worker of the tax imposed under Section 3101 of the Internal Revenue Code or any payment required from an employer under a state unemployment compensation law with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor.
- (7)
 - (a) "Wages" does not, for the purposes of KRS 341.260 to 341.310, include that part of remuneration which, after wages equal to eight thousand dollars (\$8,000) have been paid in a calendar year to a worker by a subject employer or his predecessor with respect to covered employment during any calendar year, is paid to the worker by the subject employer during the calendar year unless that part of the wages 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. On January 1, 2012, the amount of eight thousand dollars (\$8,000) in this subsection shall increase to nine thousand dollars (\$9,000), which shall increase by an additional three hundred dollars (\$300) on January 1 of each subsequent year, unless limited by paragraph (b) or (c) of this subsection, not to exceed twelve thousand dollars (\$12,000). For the purpose of this subsection, the term "covered employment" shall include service constituting covered employment under any unemployment compensation law of another state.
 - (b) If the trust fund balance on September 30 of a calendar year equals or exceeds two hundred million dollars (\$200,000,000), the taxable wage base amount in effect at that time shall not increase on January 1 of the next calendar year or on January 1 of subsequent calendar years, except as provided in paragraphs (c) and (e) of this subsection.
 - (c) If the trust fund balance on September 30 of a calendar year equals or exceeds two hundred million dollars (\$200,000,000), but is twenty million dollars (\$20,000,000) or less lower than the trust fund balance amount that would trigger in a lower schedule of contribution rates under KRS 341.270, the taxable wage base shall increase by three hundred dollars (\$300) on January 1 of the next calendar year and that taxable wage base amount shall be the taxable wage base amount in effect for subsequent calendar years, subject to the limitations in paragraph (d) of this subsection.
 - (d) The total number of years that the increase in the taxable wage base shall be prohibited or limited under paragraph (b) or (c) of this subsection shall not exceed the total number of years that contributing employers paid additional federal unemployment taxes because of a reduction in the credit against the

federal unemployment tax established in 26 U.S.C. sec. 3302 beginning in 2011.

- (e) If the taxable wage base on January 1 of the calendar year immediately following the last year the increase in the taxable wage base was prohibited or limited under this subsection is less than twelve thousand dollars (\$12,000), the taxable wage base amount shall be increased by three hundred dollars (\$300), and by an additional three hundred dollars (\$300) on January 1 of each subsequent calendar year until the taxable wage base amount reaches twelve thousand dollars (\$12,000).
- (f) Notwithstanding paragraphs (b) and (c) of this subsection, if the trust fund balance is less than two hundred million dollars (\$200,000,000) on September 30 of a calendar year, the suspension of the taxable wage base increase shall not occur.
- (g) Notwithstanding any other provision of this subsection, any increase in the maximum weekly benefit rate which otherwise would have occurred except for the suspension of the taxable wage base increase shall be implemented in accordance with the provisions of this chapter.
- (h) The provisions of this subsection shall apply unless the United States Department of Labor notifies the secretary that implementation of this subsection would result in decertification of Kentucky's unemployment insurance program, impact any cap application, affect the receipt of emergency unemployment compensation funds, create an ineligibility for receipt of federal funds, or result in other penalties or sanctions under the Social Security Act or Federal Unemployment Tax Act, 26 U.S.C. secs. 3301 et seq.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 52, sec. 8, effective July 12, 2012. -- Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 5, sec. 1, effective August 28, 2010. -- Amended 1996 Ky. Acts ch. 266, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 136, sec. 1, effective July 15, 1994.. -- Amended 1986 Ky. Acts ch. Ky. Acts ch. 26, sec. 1, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 67, sec. 3, effective July 15, 1982; and ch. 261, sec. 1, effective January 1, 1982. -- Amended 1980 Ky. Acts ch. 188, sec. 265, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 389, sec. 3, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 182, sec. 1. -- Amended 1972 Ky. Acts ch. 21, sec. 1. -- Amended 1964 Ky. Acts ch. 168, sec. 1. -- Amended 1952 Ky. Acts ch. 154, secs. 1, 2, and 3. -- Amended 1950 Ky. Acts ch. 206, sec. 1. - - Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-3.