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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 4@ CONTRIBUTIONS AND REPORTS

929-2 Allowance for Rental of Space and Equipment and

Article 2@ "WAGES" THE BASIS OF THE CONTRIBUTION

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Section 929-2@ Allowance for Rental of Space and Equipment Includes Cost of Supplies

Cost of Supplies

(a)

"Wages" does not include the reasonable rental value of land or building space or equipment, or the actual cost of supplies and materials, furnished by an employee to his employer, if the employer:(1) Maintains a record of the portion of gross remuneration paid as rental or for supplies and materials and the portion of gross remuneration paid as wages. (2) Substantiates the reasonableness of rental charges and the actual cost of supplies and materials at the request of the department.

(1)

Maintains a record of the portion of gross remuneration paid as rental or for supplies and materials and the portion of gross remuneration paid as wages.

(2)

Substantiates the reasonableness of rental charges and the actual cost of supplies and materials at the request of the department.

(b)

In determining the reasonable rental value of land or building space furnished by an employee to his employer, the reasonable rental value shall not exceed the rental price of similar facilities in the same locality, nor the actual rental price being paid by the employee if he is not the owner of the land or building.

(c)

In determining the reasonable rental value of equipment furnished by an employee to his employer, other than equipment described in subdivision (d) of this section, the following shall apply: (1) If the contract of employment specifies a reasonable division of the total amount paid between wages and equipment rental, the rental value is the amount established under the contract. (2) If the contract of employment does not specify a reasonable division of the total amount paid between wages and equipment rental, the department may make an allocation on the basis of either the prevailing wage scale for the same type of services in the same locality, or the prevailing rental value of similar equipment in the same locality.

(1)

If the contract of employment specifies a reasonable division of the total amount paid between wages and equipment rental, the rental value is the amount established under the contract.

(2)

If the contract of employment does not specify a reasonable division of the total amount paid between wages and equipment rental, the department may make an allocation on the basis of either the prevailing wage scale for the same type of services in the same locality, or the prevailing rental value of similar equipment in the same locality.

(d)

In determining the reasonable rental value of power chain saws and other equipment furnished by fallers, buckers and limbers in the logging and lumbering industries, the following shall apply: (1) The reasonable rental value of power chain saws shall, at the option of the employer, be computed on any of the

following bases: (A) Twenty percent of the gross remuneration paid for falling, bucking and limbing, regardless of the overall rate per thousand board feet felled. (B) The actual expense incurred by the employee, if the records show the initial cost of the saw, depreciation, maintenance and operational overhead in connection with services performed for the employer, and the employer establishes to the satisfaction of the department that the actual expense differs from the estimated allowance provided in paragraph (1)(A) of this subdivision. (C) The reasonable rental value specified in the contract of employment, but not to exceed the estimated allowance provided in paragraph (1)(A) of this subdivision. (2) Power chain saw rental is limited to one allowance per saw whether the saw is owned solely by one employee or by several employees jointly. For example: (A) If two employees work as a team with one employee furnishing the saw, the saw rental rate is applied against the total earnings of the team and the entire saw rental allowance is allocable to the employee furnishing the saw. (B) If two employees work as a team and furnish the saw jointly, the saw rental rate is applied against the total earnings of the team and one-half of the saw rental allowance is allocable to each member of the team. (3) No rental allowance is applicable to hand tools or equipment of nominal value including, but not limited to, axes, gunning sticks, peeling bars, plates, sledges, shims and wedges.

(1)

The reasonable rental value of power chain saws shall, at the option of the employer, be computed on any of the following bases: (A) Twenty percent of the gross remuneration paid for falling, bucking and limbing, regardless of the overall rate per thousand board feet felled. (B) The actual expense incurred by the employee, if the records show the initial cost of the saw, depreciation, maintenance and operational overhead in connection with services performed for the employer, and the employer

establishes to the satisfaction of the department that the actual expense differs from the estimated allowance provided in paragraph (1)(A) of this subdivision. (C) The reasonable rental value specified in the contract of employment, but not to exceed the estimated allowance provided in paragraph (1)(A) of this subdivision.

(A)

Twenty percent of the gross remuneration paid for falling, bucking and limbing, regardless of the overall rate per thousand board feet felled.

(B)

The actual expense incurred by the employee, if the records show the initial cost of the saw, depreciation, maintenance and operational overhead in connection with services performed for the employer, and the employer establishes to the satisfaction of the department that the actual expense differs from the estimated allowance provided in paragraph (1)(A) of this subdivision.

(C)

The reasonable rental value specified in the contract of employment, but not to exceed the estimated allowance provided in paragraph (1)(A) of this subdivision.

(2)

Power chain saw rental is limited to one allowance per saw whether the saw is owned solely by one employee or by several employees jointly. For example: (A) If two employees work as a team with one employee furnishing the saw, the saw rental rate is applied against the total earnings of the team and the entire saw rental allowance is allocable to the employee furnishing the saw. (B) If two employees work as a team and furnish the saw jointly, the saw rental rate is applied against the total earnings of the team and one-half of the saw rental allowance is allocable to each member of the team.

(A)

If two employees work as a team with one employee furnishing the saw, the saw rental rate is applied against the total earnings of the team and the entire saw rental allowance is allocable to the employee furnishing the saw.

(B)

If two employees work as a team and furnish the saw jointly, the saw rental rate is applied against the total earnings of the team and one-half of the saw rental allowance is allocable to each member of the team.

(3)

No rental allowance is applicable to hand tools or equipment of nominal value including, but not limited to, axes, gunning sticks, peeling bars, plates, sledges, shims and wedges.

(e)

The cost of hand tools and work clothing customarily furnished by an employee shall not be considered equipment or supplies furnished by an employee to his employer for purposes of this section.