

|-&gt;

Title 22@ Social Security

|-&gt;

Division 1@ Employment Development Department

|-&gt;

Subdivision 1@ Director of Employment Development

|-&gt;

Division 1@ Unemployment and Disability Compensation

|-&gt;

Part 1@ Unemployment Compensation

|-&gt;

Chapter 4@ CONTRIBUTIONS AND REPORTS

|-&gt;

Article 2@ "WAGES" THE BASIS OF THE CONTRIBUTION

|-&gt;

Section 926-3@ Taxable Value of Board and Lodging

## 926-3 Taxable Value of Board and Lodging

(a) Board, lodging, or any other payment in kind, received by an employee in addition to, or in lieu of cash wages, shall be taxable on the basis of a reasonably estimated cash value to the employee, as determined or approved by the department as hereinafter provided: (1) The reasonably estimated cash value of meals, lodging, or other payment in kind to an employee shall not be deemed less than: (A) The bona fide value stipulated in a union agreement or contract of employment; or (B) The value established as a basis of compliance with any applicable law governing minimum wages. (2) Meals. In those cases where subdivision (a)(1) is not applicable, the department shall consider the following scale to be a reasonably estimated cash value of meals to employees: For the calendar year 2011 and thereafter except as modified herein in accordance with the following provisions of this subdivision: Three meals per

day.....	\$10.30	Individual meals:
Breakfast.....	\$2.25	
Lunch.....	\$3.15	
Dinner.....	\$4.90	A meal not identifiable
as either breakfast, lunch, or		
dinner.....	\$3.60	Whenever the average
of retail prices of foods in California cities during the twelve months of any fiscal		

year ending on June 30 varies from the average of prices during the same months ending on June 30, 1969, by 10 percent or more, according to the cost of living indexes published by the United States Department of Labor, Bureau of Labor Statistics, the director shall by authorized regulation modify the 2011 scale for meals upward or downward in substantially the same ratio for the ensuing calendar year. If, however, it can be shown to the satisfaction of the department in any case that the scale as determined herein exceeds 120 percent of the cost of the raw materials used in preparing meals for employees, the department shall consider 120 percent of the cost of such raw materials to be the basis for a reasonably estimated value of meals to employees. (3) Lodging. (A) As a general

rule, in those cases where subdivision (a)(1) is not applicable, the department shall consider a reasonable estimated cash value of lodging to an employee, for the calendar year 2011 and thereafter except as modified in accordance with this subdivision, to be  $66\frac{2}{3}$  percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month or less than \$38.70 per week. The following examples illustrate the computation of taxable wages in such cases: EXAMPLE A

Ordinary rental value to public of lodging per month.....	\$500
..... Cash value of lodging to employee ( $66\frac{2}{3}$ percent of \$500 equals \$333.33).....	\$333.33
.....Taxable Wages	EXAMPLE B

Ordinary rental value to public of lodging per month.....	\$1,800.00.....	Cash value of lodging to employer ( $66\frac{2}{3}$ percent of \$1,800.00 equals \$1,200.00. The cash value for 2011 cannot be in excess of \$1,193.00).....	\$1,193.00.....	Taxable Wages
---	-----------------	--	-----------------	---------------

EXAMPLE C Ordinary rental value to public of lodging per week.....	\$50.....	Cash value of lodging to employee ( $66\frac{2}{3}$ percent of \$50.00 equals \$33.33. The cash value for 2011 cannot be less than
--	-----------	--

\$38.70; 4 weeks times \$38.70 equals

\$154.80).....\$154.80.....Taxable Wages (B) In those cases

where subdivision (a)(1) is not applicable, if the employee receives part of his or her lodging in exchange for a cash payment and part in exchange for services rendered, the department shall consider that only the part received in exchange for services rendered is received in lieu of cash wages. The amount of the cash payment by the employee shall be deducted from the ordinary rental value of the lodging to the public, and the reasonably estimated cash value of the remainder, which is the part received by the employee in lieu of cash wages, shall be  $66\frac{2}{3}$

percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month. The following examples illustrate the computation of taxable wages in such cases: EXAMPLE A Ordinary rental value to public of lodging per

month.....\$660 Employee pays cash for

lodging.....60

Remainder.....600 Cash value of lodging to employee

( $66\frac{2}{3}$  percent of \$600 equals \$400).....400Taxable

Wages EXAMPLE B Ordinary rental value to public of lodging per

month.....\$400 Employee pays cash for

lodging.....190

Remainder.....210 Cash value of lodging to employee

( $66\frac{2}{3}$  percent of \$210 equals \$140).....140Taxable

Wages (C) Whenever the average of residential rent prices in the Los Angeles, San Diego, and San Francisco Metropolitan Areas during the twelve months of any fiscal year ending on June 30 varies from the average of prices during the same months ending on June 30, 1973, by 10 percent or more, according to the residential rent indexes published by the United States Department of Labor,

Bureau of Labor Statistics, the director shall by authorized regulation modify the 2011 scale of maximum and minimum rates for lodging upward or downward in substantially the same ratio for the ensuing calendar year. (4) Where there are unusual facts and circumstances which make any of the foregoing inapplicable, the department shall consider reasonably estimated cash value of meals or lodging to the employees.

**(1)**

The reasonably estimated cash value of meals, lodging, or other payment in kind to an employee shall not be deemed less than: (A) The bona fide value stipulated in a union agreement or contract of employment; or (B) The value established as a basis of compliance with any applicable law governing minimum wages.

**(A)**

The bona fide value stipulated in a union agreement or contract of employment; or

**(B)**

The value established as a basis of compliance with any applicable law governing minimum wages.

**(2)**

Meals. In those cases where subdivision (a)(1) is not applicable, the department shall consider the following scale to be a reasonably estimated cash value of meals to employees: For the calendar year 2011 and thereafter except as modified herein in accordance with the following provisions of this subdivision: Three meals per

day.....\$10.30 Individual meals:

Breakfast.....\$2.25

Lunch.....\$3.15

Dinner.....\$4.90 A meal not identifiable as  
either breakfast, lunch, or dinner.....\$3.60

Whenever the average of retail prices of foods in California cities during the twelve months of any fiscal year ending on June 30 varies from the average of prices during the same months ending on June 30, 1969, by 10 percent or more, according to the cost of living indexes published by the United States Department of Labor, Bureau of Labor Statistics, the director shall by authorized regulation modify the 2011 scale for meals upward or downward in substantially the same ratio for the ensuing calendar year. If, however, it can be shown to the satisfaction of the department in any case that the scale as determined herein exceeds 120 percent of the cost of the raw materials used in preparing meals for employees, the department shall consider 120 percent of the cost of such raw materials to be the basis for a reasonably estimated value of meals to employees.

**(3)**

Lodging. (A) As a general rule, in those cases where subdivision (a)(1) is not applicable, the department shall consider a reasonable estimated cash value of lodging to an employee, for the calendar year 2011 and thereafter except as modified in accordance with this subdivision, to be  $66 \frac{2}{3}$  percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month or less than \$38.70 per week. The following examples illustrate the computation of taxable wages in such cases:

EXAMPLE A	Ordinary rental value to public of lodging per month.....	\$500
	..... Cash value of lodging to employee ( $66 \frac{2}{3}$ percent of \$500 equals \$333.33).....	\$333.33
	.....Taxable Wages	
EXAMPLE B	Ordinary rental value to public of lodging per month.....	\$1,800.00
	..... Cash value of lodging to employer ( $66 \frac{2}{3}$ percent of \$1,800.00 equals \$1,200.00. The cash value for 2011 cannot be in excess of \$1,193.00).....	\$1,193.00
	.....Taxable Wages	
EXAMPLE C	Ordinary rental value to public of lodging per week.....	\$50
	..... Cash value of	

lodging to employee ( $66\frac{2}{3}$  percent of \$50.00 equals \$33.33. The cash value for 2011 cannot be less than \$38.70; 4 weeks times \$38.70 equals

\$154.80).....\$154.80.....Taxable Wages (B) In those cases where subdivision (a)(1) is not applicable, if the employee receives part of his or her lodging in exchange for a cash payment and part in exchange for services rendered, the department shall consider that only the part received in exchange for services rendered is received in lieu of cash wages. The amount of the cash payment by the employee shall be deducted from the ordinary rental value of the lodging to the public, and the reasonably estimated cash value of the remainder, which is the part received by the employee in lieu of cash wages, shall be  $66\frac{2}{3}$  percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month. The following examples illustrate the computation of taxable wages in such cases: EXAMPLE A Ordinary rental value to public of lodging per month.....\$660

Employee pays cash for lodging.....60

Remainder.....600 Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$600 equals \$400).....400Taxable Wages

EXAMPLE B Ordinary rental value to public of lodging per month.....\$400 Employee pays cash for

lodging.....190 Remainder.....210

Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$210 equals \$140).....140Taxable Wages (C) Whenever the average of

residential rent prices in the Los Angeles, San Diego, and San Francisco Metropolitan Areas during the twelve months of any fiscal year ending on June 30 varies from the average of prices during the same months ending on June 30, 1973, by 10 percent or more, according to the residential rent indexes published by the United States Department of Labor, Bureau of Labor Statistics, the director shall by authorized

regulation modify the 2011 scale of maximum and minimum rates for lodging upward or downward in substantially the same ratio for the ensuing calendar year.

**(A)**

As a general rule, in those cases where subdivision (a)(1) is not applicable, the department shall consider a reasonable estimated cash value of lodging to an employee, for the calendar year 2011 and thereafter except as modified in accordance with this subdivision, to be  $66\frac{2}{3}$  percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month or less than \$38.70 per week. The following examples illustrate the computation of taxable wages in such cases:

EXAMPLE A Ordinary rental value to public of lodging per month.....\$500 ..... Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$500 equals \$333.33).....\$333.33 .....Taxable Wages

EXAMPLE B Ordinary rental value to public of lodging per

month.....\$1,800.00..... Cash value of lodging to employer ( $66\frac{2}{3}$  percent of \$1,800.00 equals \$1,200.00. The cash value for 2011 cannot be in excess of \$1,193.00).....\$1,193.00.....Taxable Wages

EXAMPLE C Ordinary rental value to public of lodging per week.....\$50..... Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$50.00 equals \$33.33. The cash value for 2011 cannot be less than \$38.70; 4 weeks times \$38.70 equals \$154.80).....\$154.80.....Taxable Wages

**(B)**

In those cases where subdivision (a)(1) is not applicable, if the employee receives part of his or her lodging in exchange for a cash payment and part in exchange for services rendered, the department shall consider that only the part received in exchange for services rendered is received in lieu of cash wages. The amount of the cash payment by the employee shall be deducted from the ordinary rental value of the lodging to the public, and the reasonably estimated cash value of the remainder, which is the part received by the employee in lieu of

cash wages, shall be  $66\frac{2}{3}$  percent of the ordinary rental value to the public but not in excess of \$1,193.00 per month. The following examples illustrate the computation of taxable wages in such cases:

EXAMPLE A Ordinary rental value to public of lodging per month.....\$660 Employee pays cash for lodging.....60 Remainder.....600 Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$600 equals \$400).....400Taxable Wages

EXAMPLE B Ordinary rental value to public of lodging per month.....\$400 Employee pays cash for lodging.....190 Remainder.....210 Cash value of lodging to employee ( $66\frac{2}{3}$  percent of \$210 equals \$140).....140Taxable Wages

**(C)**

Whenever the average of residential rent prices in the Los Angeles, San Diego, and San Francisco Metropolitan Areas during the twelve months of any fiscal year ending on June 30 varies from the average of prices during the same months ending on June 30, 1973, by 10 percent or more, according to the residential rent indexes published by the United States Department of Labor, Bureau of Labor Statistics, the director shall by authorized regulation modify the 2011 scale of maximum and minimum rates for lodging upward or downward in substantially the same ratio for the ensuing calendar year.

**(4)**

Where there are unusual facts and circumstances which make any of the foregoing inapplicable, the department shall consider reasonably estimated cash value of meals or lodging to the employees.

**(b)**

Employers shall maintain reasonably complete records of meals and lodging furnished employees as a part of their remuneration. Such records shall be in such



form as to show the number and kind of meals actually consumed by employees. If, in any case, an employee objects to the amount of deductions made for contributions on the ground that the value and number of meals furnished or the value of any remuneration in kind is erroneous, he or she may protest to the department and request a determination thereon.

**(c)**

It is immaterial for the purposes of this section that the facilities furnished by the employer are furnished for his or her convenience or the convenience of the employee.

**(d)**

The provisions of this section shall not be construed to include as taxable wages items expended on behalf of the employer and designated as traveling allowance.

**(e)**

This section is not applicable to meals and quarters furnished officers and crew members aboard merchant vessels, or the meals and quarters received by fishermen except as specifically provided in Sections 926-4 and 926-5 of these regulations.

**(f)**

No right or cause of action founded upon any scale of reasonably estimated cash value of meals to employees in effect under provisions existing prior to the amendment of this section shall be abolished or impaired by such amendment.