

NCCI Payroll Inclusions and Exclusions

BrickStreet is providing the information below as a service to our policyholders to help you properly calculate payroll for your business. The regulations and definitions provided below are those of the National Council on Compensation Insurance. As NCCI is the recognized rating and statistical agent for West Virginia, BrickStreet must follow these guidelines.

The following terms and conditions are adapted from Rule 2 of NCCI's Basic Manual, 2001 edition.

PAYROLL INCLUSIONS AND EXCLUSIONS

Payroll includes:

- Wages or salaries (including retroactive wages or salaries).
- Total cash received by an employee for commissions and draws against commissions.
- Bonuses, including stock bonus plans.
- Extra pay for overtime work except as provided in the Exclusion from Overtime section below.
- Pay for holidays, vacations or periods of sickness.
- Payment by an employer of amounts that would have been withheld from employees to meet statutory obligations for insurance or pension plans such as the Federal Social Security Act or Medicare.
- Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans.
- Payment or allowances for hand tools or hand-held power tools used by employees in their work or operations for the insured. These tools may be supplied directly by the employee or to the employee through a third party.
- The rental value of an apartment or house provided to an employee based on comparable accommodations.
- The value of lodging, other than an apartment or house received by an employee as part of their pay to the extent shown in the insured's records.
- The value of meals received by employees as part of their pay.
- The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.
- Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125) that are made through employee-authorized salary reduction from the employee's gross pay.
- Davis-Bacon wages or wages from a similar prevailing wage law.
- Annuity plans.
- Expense reimbursements to employees to the extent that an employer's records do not confirm that the expense was incurred as a valid business expense.

Exceptions:

When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 per day, is permitted.

Payment for filming of commercials excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in print or is broadcast.

Payroll excludes:

- Tips or other gratuities received by employees
- Payments by an employer to group insurance or group pension plans for employees.
- Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).
- The value of special rewards for individual invention or discovery.
- Dismissal or severance payments except for time worked or vacation accrued.
- Payments for active military duty.
- Employee discounts on goods purchased from the employee's employer.
- Expense reimbursements to employees to the extent that an employer's records confirm that the expense was incurred as a valid business expense.
- Reimbursed expenses and flat expense allowances (except for hand or hand-held power tools) paid to employees may be excluded from the audit only if all three of the following conditions are met:
 1. The expenses are incurred for the business of the employer
 2. The amount of each employee's expense payments or allowances are shown separately in the records of the employer
 3. The amount of each employee's expense reimbursement is a fair estimate of the actual expenses incurred by the employee in the conduct of his/her work

Note: When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 per day, is permitted.

- Supper money for late work.
- Work uniform allowances.
- Sick pay paid to an employee by a third party such as an insured's group insurance carrier that is paying disability income benefits to a disabled employee.
- Employer-provided perks such as:
 1. Use of company-provided automobiles
 2. Airplane flights
 3. Incentive vacations (e.g., contest winners)
 4. Discounts on property or services
 5. Club memberships
 6. Tickets to entertainment events
- Employer contributions to employee benefit plans such as:
 1. Employee savings plans
 2. Retirement plans
 3. Cafeteria plans (IRC 125)

These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.

OVERTIME

Definition: Overtime means hours worked for which there is an increase in the rate of pay:

- For work in any day or in any week in excess of the number of hours normally worked
- For hours worked in excess of eight hours in any day or 40 hours in any week
- For work on Saturdays, Sundays, or holidays

In the case of a guaranteed wage agreement, overtime means only those hours worked in excess of the number specified in that agreement.

Note: Forms of incentive pay, commonly referred to as "shift differential" or "premium pay" associated with working other than normal day shift hours during the standard workweek, are not considered overtime.

Exclusion of Overtime Payroll

Payroll Records

The extra pay for overtime is excluded from payroll on which premium is calculated as indicated in the table below, provided that the insured's books and records are maintained to show overtime pay separately by employee and in summary by classification. Extra pay is the difference between the regular pay rate and the overtime pay rate multiplied by the number of overtime hours worked.

Calculating Overtime

If the records show . . . Then . . .

- Extra pay earned for overtime separately . . . The entire extra pay is excluded
- The total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime . . . 1/3 of this total pay must be excluded.
- Double time is paid for overtime and the total pay for such overtime is recorded separately . . . 1/2 of the total pay for double time must be excluded.

Note: The only portion of the overtime payroll that is deductible is the amount in excess of wages that would have been applied if the overtime were compensated at the regular rate of pay.

Exception: Exclusion of overtime pay does not apply to payroll assigned to any classification under the caption Stevedoring with a code number followed by the letter F.

Hours Worked

Extra pay for overtime is deducted only if the employee receives extra pay for:

- Working more than 8 hours per day or 40 hours per week; or
- Hours worked in a day or week that are greater than the number of hours usual to the insured or industry. This may permit an overtime deduction if an employee works less than 8 hours per day or less than 40 hours per week (e.g., for a 32-hour workweek, any hours over 32 hours is overtime).

No deduction for overtime is permitted for wages earned by employees who work in excess of 40 hours per week but do not receive an increase in their normal hourly rate of pay for the overtime work.

Guaranteed Wages

In some industries, guaranteed wage contracts or agreements exist under which the employee receives a guaranteed wage for work up to a specified number of hours per week, such as 50. The guaranteed wage, for example, is calculated on the basis of 40 hours at straight time and 10 hours at 1 1/2 times the basic hourly wage. Under guaranteed wage plans of this general type, the full guaranteed wage is included in the premium calculation for any hours that an employee works up to the maximum number of hours covered by the guaranteed wage, regardless of how this wage is calculated. The overtime rule is applicable in the case of guaranteed wages only to earnings in excess of the guaranteed wages.

Premium Pay

This rule applies with respect to higher rates of pay that are paid at the traditional overtime hourly rate of pay for work on Saturdays, Sundays, or holidays, even though the employee has not worked the normal workweek, because work on these days has been regarded traditionally as overtime and not as part of the normal workweek.

Premium Pay is extra compensation paid to employees who work nights, holidays, weekends, other special hours or work under unusual conditions. This premium pay is not considered overtime pay when it is the normal pay for working these shifts.

For more specific information, please contact the National Council on Compensation Insurance.