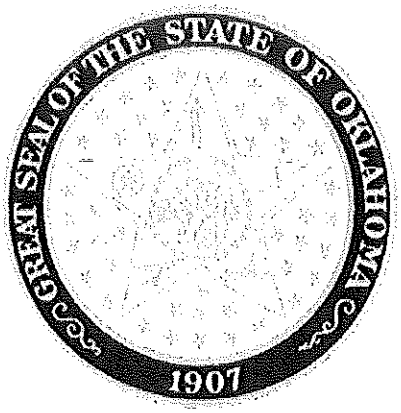
UNEMPLOYMENT INSURANCE

An Employer's Guide to Unemployment Insurance Compensation, Employer UI Taxes, Benefit Wage Charges, New Hire Reporting and more

a publication from the
OKLAHOMA EMPLOYMENT SECURITY COMMISSION

Brad Henry, Governor



Oklahoma Employment Security Commission

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Oklahoma Employment Security Commission

Unemployment Insurance Division
P.O. Box 52003
Oklahoma City, OK 73152

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The Unemployment Insurance System

Economic security through preparedness, response, relief and recovery

The Unemployment Insurance system was created in 1935 in response to the economic threat to the United States posed by the Great Depression. To ensure economic security, this joint state and federal system used the same strategy that the United States now employs to meet the challenges of the 21st century: *preparedness, response, relief* and *recovery*.

Preparedness: The Unemployment Insurance System meets economic fluctuations and confronts crisis in the economy by maintaining a coherent set of policies and services, comprehensive program planning, forward funding, technological advances, legislative changes, labor market analysis, and well-trained system workers. Preparedness permits quick response.

Response: The Unemployment Insurance system is one of the first responders to an economic crisis. This is most evident in situations that affect large numbers of people, such as mass layoffs, seasonal layoffs, business closings, natural disasters and terrorist attacks. However, the process is just as effective when responding at the individual level to the subtle affects of buy-outs, globalization, outsourcing, immigration, changes in labor demographics, and trends in trade. A rapid response accelerates relief.

Relief: The Unemployment Insurance system provides direct access to temporarily sustained relief. The employer and the worker both benefit from the temporary partial replacement of wages to qualified unemployed workers. Unemployment compensation provides necessities for the unemployed worker, while also providing a consistent flow of funds into the economy that supports the demand for consumer goods and services and improves the worker's probability of being re-employed. Relief sustains the economy as it shifts to recovery.

Recovery: The Unemployment Insurance system provides for a multi-faceted economic recovery through tax incentive programs, job training, education, job placement, dissemination of economic trends and indicators, and the preservation of an available and skilled workforce. Employment security encourages consumer confidence and spending to rebound, which contributes to economic stability, recovery, and long-term, sustainable economic growth.

Ez Tax Express

OESC's new online quarterly report filing option for employers

To better serve Oklahoma, OESC has developed an internet portal, called Ez Tax Express (https://eztaxexpress.oesc.state.ok.us), to enable employers to perform many of the functions via the internet that were previously completed on paper.

Features available through Ez Tax Express

When using the OESC Ez Tax Express, employers will be able to:

- register online as a new employer to obtain an Oklahoma Employer Account Number
- file their Oklahoma Employer's Quarterly Contribution Report (OES-3)
- file their Adjusted Oklahoma Employer's Quarterly Contribution Report (OES-3)
- pay their Oklahoma Unemployment Tax online
- view their Oklahoma Employer's Quarterly Contribution Reports (OES-3)
- view their tax rate information
- view their tax account information
- view the status of appeals
- view UI tax publications, tax laws and rules
- submit a request to place their Oklahoma Employer Account Number in inactive status
- perform a limited update of employer contact information

Third party and bulk filers

Bulk filers and third party administrators (TPA) can use the OESC Ez Tax Express to perform all of the functions available to the individual employer.

- TPAs or bulk filers can register client accounts and add them to their client base in their TPA account. Once the TPA logs into their account, their client base can be accessed without logging onto each individual account.
- Quarterly tax reports can be filed by multi-account file upload.
- Payment can be made by electronic funds transfer (EFT) or check for all accounts filed in the upload process.

Filing an OES-3 online

When filing an OES-3, Employers Quarterly Contribution Report online using OESC Ez Tax Express, an employer will be able to:

- display employee's masked SSNs and names from previous online filing

- enter and edit each employee's wage information
- automatically calculate the tax due and the summary of total and taxable wages
- receive a confirmation number upon successful submission of their report
- print a copy of their quarterly report for their records or save to a pdf file
- select an online option to pay an employer's quarterly contribution (EFT)
- print a remittance voucher to be submitted with the employer's payment check
- import information directly from their payroll system via a text file–file upload option

Online methods to file an OES-3

Employers may use one of two methods to file an OES-3.

The first method is to enter employee wage information manually.
- Tax, interest and penalties will be calculated for the employer.
- If an employer has previously filed via Ez Tax Express, the employee's SSN and name will be displayed, and the employer can quickly and easily update each employee's new quarterly wage information and add or delete information.

The second method is to upload a wages report.
- Using an ASCII text file, an employer can upload the quarterly contribution report information directly from their existing payroll program. This method is strongly recommended to employers who have more than 30 employees.

Employers eligible to file an OES-3 via Ez Tax Express

Oklahoma employers may file their OES-3, Oklahoma Employers Quarterly Contribution Report through Ez Tax Express if both of the following are true.
- The employer's account is active for the quarter of filing.
- A report has not already been filed.

To reinstate an employer account or determine liability, contact the Status Unit at (405) 557-7226.

Filing deadlines when using Ez Tax Express

Using Ez Tax Express, an employer may file any quarterly report for the current quarter or any past due quarter. The due dates for OES-3 submission are as follows.

Quarter	Months covered	Due date
First	January, February, March	April 30
Second	April, May, June	July 31
Third	July, August, September	October 31
Fourth	October, November, December	January 31

Filing an Adjusted OES-3 online

When filing an Adjusted OES-3 using Ez Tax Express, employers will be able to:
- correct previously reported employee wage information
- add omitted employee(s)
- automatically calculate the adjusted tax due
- receive a confirmation number upon successful submission of the adjusted report
- print a copy of the employer's adjusted quarterly report for their records
- select an online option to pay an employer's adjusted quarterly contribution (EFT)
- print a remittance voucher to be submitted with the employer's payment check.

Using the Ez Tax Express online payment option

When using the Ez Tax Express online payment option, employers will be able to:
- enter a specific amount to be paid
- select the specific quarter and year to which to apply the payment
- receive a confirmation number upon successful submission of their payment
- print a copy of their online payment confirmation for their records

In addition, third party filers and bulk filers will be able to:
- display individual employer amounts to be paid
- edit each individual employer payment amount

Electronic funds transfer (EFT) is a vital part of daily business activity. EFT allows employers to maximize their monetary resources by providing more control of their money flow. It is designed to be secure and cost-effective and to move funds in a fast and timely manner. In addition, it can be implemented without any significant up-front investment.

Benefits that EFT offers to employers include:
- control of bank account activity
- timely payment of contributions
- avoidance of postal delays and restrictive postal time schedules
- secured method of payment

EFT is available to all employers for payment of unemployment contributions and reimbursable charges.

Viewing unemployment tax account information

When using the View Tax Account History option in Ez Tax Express, employers will be able to:
- view OES-3, Oklahoma Employers Quarterly Contribution Reports that were filed through the portal

- view Oklahoma Employers Quarterly Adjustment Contribution Reports (OES-3B)
- view unemployment tax payments
- view unemployment tax account history
- view unemployment tax refunds
- view unemployment tax warrants (tax liens)
- view IRS Federal Unemployment Tax Act (FUTA) certification
- view rate history and benefit wage charge history
- view tax appeal information

Registering for an Oklahoma State Unemployment Tax Act (SUTA) account number using Ez Tax Express

Employers can complete the OES-1, Application for Oklahoma UI Tax Account Number online and submit it to obtain an Oklahoma SUTA account number via Ez Tax Express. The completed report is submitted to the Status Unit for review. The employer will be notified by mail once the account is established.

Updating account information using Ez Tax Express

When using the Update Account Information option, employers will be able to:

- complete the OES-24 Termination report online (employers are notified by mail when the account is terminated)
- update mailing address, phone number and contact information

Changes to international addresses can not be updated in Ez Tax Express at this time. Please send requests for international address corrections to the Oklahoma Employment Security Commission, Attn: Status Department, P.O. Box 52003, Oklahoma City, Oklahoma, 73152-2003.

Employers & Unemployment Insurance

Benefits to employers

The Oklahoma Employment Security Commission (OESC) provides a variety of services from which employers can benefit. Employers have access to job candidates, recruiting services, skilled labor pools, labor market information, assistance with job fairs, onsite recruitment, and assistance with major workforce shifts and/or reductions in their workforce. Employers can also obtain assistance through the Incumbent Worker Training program, Rapid Response program and Alien Labor Certification as well as the Partial Claims program that helps sustain their workforce through a temporary lay-off. OESC also participates in the Quality Jobs program and other tax incentive programs.

The business community also profits through the payment of regular unemployment benefits to qualified workers and the payment of benefits and training through trade assistance programs, disaster assistance programs, youth training programs and dislocated workers programs.

Oklahoma's unemployment insurance (UI) law

The Oklahoma unemployment insurance program is established and governed by the Employment Security Act of 1980, Oklahoma Statutes, Title 40, Sections 1-101 through 9-104. This law establishes:

- definitions
- contributions (tax)
- benefits and eligibility
- the unemployment compensation fund
- program administration

Federal unemployment insurance (UI) law

Federal legislation authorizing and governing state unemployment programs is found in both the Social Security Act and the Federal Unemployment Tax Act.

The Social Security Act establishes:

- funding for state UI program administration
- state law requirements
- federal unemployment compensation accounts

The Federal Unemployment Tax Act establishes:
- federal unemployment tax rates
- credits against the tax
- state law approval provisions
- definitions

Unemployment insurance (UI) rules

The UI rules are written statements providing the administrative guidelines for OESC to follow in delivering unemployment insurance services. These administrative rules are written under the authority of state and federal law and have the effect of law.

The administrative rules governing the Oklahoma unemployment insurance program are found in the Oklahoma Administrative Code at 240:1-1-1 through 240-25-3-1.

Unemployment insurance (UI) fraud

It is a crime to commit unemployment insurance fraud. Section 5-103 of the Oklahoma Employment Security Act states that an employer who makes a false statement or representation knowing it to be false or fails to disclose a material fact is guilty of a misdemeanor. Individuals who commit fraud are subject to fines, penalties and/or criminal prosecution.

Acts that constitute employer fraud include:
- misclassification of workers
- incorrectly reporting wages
- providing false information to prevent an otherwise eligible claimant from obtaining benefits
- failure to pay unemployment insurance (UI) taxes, report necessary information or prohibit inspection
- SUTA dumping, or the manipulation of tax rates to pay a lower rate than the earned experience rate

Employer Responsibilities

Registering as a new employer in Oklahoma

The eligibility requirements are explained in the Status Determination section below. To obtain the required forms, contact the Status Department or visit our website at http://oesc.ok.gov. The OES-1, Employer Status report can now be completed online at https://eztaxexpress.oesc.state.ok.us.

Reports and forms needed to register

The OES-1, Application for Oklahoma UI Tax Account Number is the application to determine UI tax liability. All new or reinstated businesses are required to submit an OES-1 report. Once an employer becomes subject, an Oklahoma account number is assigned and reports are mailed to the employer every calendar quarter. The quarterly wage report is due by the last day of the month following the end of the calendar quarter.

Status determination

An employer is subject to report and pay the unemployment insurance (UI) tax if that employer meets any one of the following criteria.

The employer is:

- an employing unit that pays $1,500 in wages in a calendar quarter or employs one or more employees for any portion of a week for any 20 weeks in a calendar year
- an employing unit that acquires substantially all the organization, trade, business, assets or employees of a subject employer, or an employing unit that acquires a portion of the organization, trade, business, assets or employees of a subject employer
- an employing unit that has previously ceased to be an employer but subsequently has employment (except those that cease under Termination of Coverage Provisions).
- an employing unit that voluntary elects to become subject
- any department of Oklahoma or any state, all instrumentalities and any political subdivision
- an employing unit that is a non-profit organization as described in Section 1-210 (4) of the Oklahoma Employment Security Act or that has a 501 (c) (3) exemption issued by the IRS is subject, provided they employ four or more employees for some portion of a week during any 20 weeks in a calendar year
- an employing unit engaged in agricultural employment that pays $20,000 in wages in a calendar quarter or employs 10 or more employees for any portion of a week for any 20 weeks in a calendar year

- an employing unit that pays $1,000 in wages in a calendar quarter for domestic services

If an employing unit is not an employer by reason of any other provision of the Oklahoma Employment Security Act, they would be a subject employer and required to report and pay tax on all Oklahoma wages if they were subject to the Federal Unemployment Tax Act (FUTA).

The term "employer" shall include any Indian tribe for which service in employment is performed.

Employment

"Employment" means work done for an employer by individuals whom the employer pays, whether permanently or temporarily employed, unless the work is specifically exempt from coverage by the provisions of the Oklahoma Employment Security Act. Employment includes services performed by officers of corporations, including S corporations.

Interstate employment

Wages are reported to the Oklahoma Employment Security Commission if:

- the service is localized in Oklahoma. Service is considered to be Oklahoma employment if it is performed entirely within Oklahoma. The service is also considered Oklahoma employment if performed both inside and outside of Oklahoma, but the service outside of Oklahoma is incidental to the service in Oklahoma.
- the service is not localized in any state. If the service is not localized in any state but some of the service is performed in Oklahoma, and
  - the individual's "base of operations" is in Oklahoma, or if there is no base of operations, than the place from which the individual's employment is directed or controlled is in Oklahoma, or
  - the individual's base of operations or place from which the service is directed or controlled is not in any state where service is performed, but the individual's residence is in Oklahoma.

Employment exempt from coverage

Payments made for services that are exempt should not be included on the quarterly wage report. The following services do not constitute employment and are exempt from UI taxes.

- Services of an ordained minister in the exercise of his/her ministry
- Services performed by the spouse of an individual owner (sole proprietor)

- Services of a minor child (under 21) in the employ of the parents
- Services of parents in the employ of their sons or daughters
- Services performed by an insurance agent or as a licensed real estate agent, if all service is performed for remuneration solely by commissions or fees

Lessor employers

Lessor employers are employing units that contract with other employers, individuals, organizations or legal entities to provide "leased" employees. The lessor employer is liable for contributions on wages paid to individuals performing services for the client lessees. The lessee will be held jointly and severally liable with the lessor employing unit unless the lessor employer posts and maintains a surety bond.

Independent contractors and contract labor

Services performed by an individual for wages or under any contract of hire shall be considered employment unless it is shown that:

- the individual is free from direction and control over his performance of service, and
- one of the following
  - the individual has his on independently established business
  - the individual is performing services outside the usual course of the business and outside all places of business

Individuals not meeting the above criteria are considered employees and should be reported by the employing unit. If you have individuals performing services that you have classified or contemplated classifying as "self employed" or "independent contractors," please contact OESC so a determination can be made. By doing this, unexpected taxes, interest and penalties may be avoided.

Successor employers

A successor employer is an employing unit that has acquired substantially all of the trade, employees, organization, business or assets of the predecessor employer and continued the operation. The successor employer also acquires the predecessor's UI tax rate & history, including their actual contribution, benefit experience and annual payrolls. The successor is jointly and severally liable with the predecessor for all contributions, interest, penalties and fees owed by the predecessor employer.

A partial successor employer is an employing unit that has acquired substantially all of the trade, employees, organization, business or assets of an employer at one or more separate and distinct establishments and continued the operation. To acquire the portion of the experience rating account that was purchased, the successor must send a written application and the portion of history to be transferred within 120 days of the acquisition.

Successor and predecessor employers, special rules on transfer of rates and experience

If an employer transfers all or a portion of its business to another employer and, at the time of transfer, there is substantially common ownership, management or control of the two employers, the histories of the employers will be combined.

Employers that are no longer required to file quarterly wage reports

You may stop filing reports if you have:

- closed your business and will have no further payroll
- sold your business and will have no further payroll

This information needs to be submitted in writing and should include the date the business closed or was sold and the name and address of the new owner. The OES-24, Termination of Business in Whole or Part can be completed to close the account with or without a new owner.

Wages

Definition of "wages" (Section 1-218, Oklahoma Employment Security Act)

"Wages" means all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and includes dismissal payments which the employer is required by law or contract to make. Gratuities customarily received by an individual in the course of work from persons other than the employing unit shall be treated as "wages" received from the employing unit. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Oklahoma Employment Security Commission.

Total wages are equal to gross wages minus any exemptions listed below.

Wages do not include:

- the amount of any payment, with respect to services performed to or on behalf of an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals, 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
  - retirement, other than employee contributions or deferrals after December 31, 2002, under a qualified plan as described in 26 U.S.C., Section 401(k) and, after December 31, 2005, under a qualified plan as described in 26 U.S.C., Sections 403b, 408(k), 457 and 7701(j)
  - sickness or accident disability
  - medical and hospitalization expenses in connection with sickness or accident disability
  - death, provided the individual in its employ
    a. has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium or contributions to premiums paid by the employing unit, and
    b. has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive cash consideration in lieu of such benefit either upon withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of the individual's services with such employing unit
  - a bona fide thrift or savings fund, providing
    a. such payment is conditioned upon a payment of a substantial sum by such individuals in its employ, and

b. that such sum paid by the employing unit cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any twelvemonth period, except upon an individual's separation from that employment

- any payment made to, or on behalf of, an employee or his or her beneficiary under a cafeteria plan of the type described in 26 U.S.C., Section 125 and referred to in 26 U.S.C., Section 3306(b)(5)(G)
- any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C., Section 127 or a dependent care assistance program as described in 26 U.S.C., Section 129 and as referred to in 26 U.S.C., Section 3306(b) (13)
- the payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under 26 U.S.C., Section 3101 with respect to domestic services in a private home of the employer or for agricultural labor
- dismissal payments which the employer is not required by law or contract to make;
- the value of any meals and lodging furnished by or on behalf of an employer to an individual in its employ; provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer
- payments made under an approved supplemental unemployment benefit plan

Definition of "wages paid" (Section 1-219, Oklahoma Employment Security Act)

"Wages paid" means wages actually paid to the worker, provided that in the event of any distribution of an employer's assets through insolvency, receivership, composition, assignment for the benefit of creditors, or termination of business, wages earned but not actually paid shall be considered as paid.

Wages must be reported for the calendar quarter in which they are paid.

Definition of "taxable wages" (Section 1-223, Oklahoma Employment Security Act), including the formula used to compute the yearly taxable limitation

- Prior to January 1, 2000, "taxable wages" means the wages paid to an individual with respect to employment during a calendar year for services covered by the Employment Security Act of 1980 or other state unemployment compensation acts which shall equal

50 percent of the state's average annual wage for the second preceding calendar year as determined by the Oklahoma Employment Security Commission, rounded to the nearest multiple of $100.

- Beginning January 1, 2000, "taxable wages" means the wages paid to an individual with respect to employment during a calendar year for services covered by the Employment Security Act of 1980 or other state unemployment compensation which shall equal the applicable percentage of the state's average annual wage for the second preceding calendar year as determined by the Oklahoma Employment Security Commission, rounded to the nearest, multiple of $100. The application percentage is determined by the conditional factor in place during the calendar year for which the taxable wage is being calculated. The conditional factor is determined pursuant to the provisions of Section 3-113 of the Oklahoma Employment Security Act. The applicable percentages are as follows.
  - 40 percent during any calendar year which the balance in the Unemployment Insurance trust fund is in excess of the amount required to initiate conditional contribution rates, pursuant to the provisions of Section 3-113 of the Oklahoma Employment Security Act
  - 42.5 percent during calendar years in which condition "a" exists
  - 45 percent during calendar years in which condition "b" exists
  - 47.5 percent during calendar years in which condition "c" exists
  - 50 percent during calendar years in which condition "d" exists

Computing an employer's yearly taxable limitation using taxable wages

Once an employer has determined their total wages as defined by Section 1-218 of the Oklahoma Employment Security Act, the employer can determine how much of its total wages are taxable up to the Taxable Limitation for each employee. This amount is computed per employee per year.

The following scenarios are for example purposes only. The 2009 taxable limitation is $14,200.

Scenario 1	Total wages	Taxable wages
First quarter 2009	$15,000.00	$14,200.00
Second quarter 2009	$13,000.00	$0.00
Third quarter 2009	$5,000.00	$0.00
Fourth quarter 2009	$15,000.00	$0.00
2009 total	**$48,000.00**	**$14,200.00**

Scenario 2	Total wages	Taxable wages
First quarter 2009	$5,000.00	$5,000.00
Second quarter 2009	$3,200.00	$3,200.00
Third quarter 2009	$8,350.48	$6,000.00
Fourth quarter 2009	$5,500.00	$0.00
2009 total	**$22,050.48**	**$14,200.00**

Scenario 3	Total wages	Taxable wages
First quarter 2009	$2,348.00	$2,348.00
Second quarter 2009	$3,200.00	$3,200.00
Third quarter 2009	$2,500.00	$2,500.00
Fourth quarter 2009	$5,500.00	$5,500.00
2009 total	**$13,548.00**	**$13,548.00**

Definition of "file" (Section 1-224, Oklahoma Employment Security Act)

When any document is required to be filed by the provisions of the Oklahoma Employment Security Act or the rules promulgated under the authority of the Act with the Oklahoma Employment Security Commission, any of its representatives, or the Board of Review for the Oklahoma Employment Security Commission, the term "file", "files" or "filed" shall be defined as follows.

- Hand-delivered to the central administrative office of the Oklahoma Employment Security Commission by the close of business on or before the date due
- Telefaxed to the telefax number indicated on the determination letter, order or other document issued by of the Oklahoma Employment Security Commission by midnight on or before the date due. Timely telefaxing shall be determined by the date and time recorded by the OESC telefax equipment

Penalties for not filing required reports or not paying contributions by the due date

To assure compliance with the Oklahoma Employment Security Act and avoid the extra expense connected with obtaining and processing delinquent reports, the Act provides for the following penalties which attach to reports and payments not submitted when due.

- A penalty is assessed for failure to file Form OES-3, Employer's Contribution Report in the amount of $100 plus 10 percent of the contribution due if the report is not filed within 15 days of Notice of Non-Receipt. Interest accrues at 1 percent per month on past due contributions.

Employer contributions

Information in this section not applicable to reimbursing or 1 percent government employers

Experience rating

Experience rating is the system by which tax rates vary in relation to an employer's experience with unemployment. Experience rating has three major objectives.

- Serve as an incentive to stabilize employment
- Produce proper allocation of the cost of unemployment benefits
- Encourage employer participation in the program

Eligibility for an experience-rating contribution rate

The statutory (new) employer contribution rate is the greater of the following two options.

- The average contribution rate paid by all employers during the second year preceding the current calendar year
- 1 percent of taxable wages

The 1 percent rate is applied to all newly subject employers for approximately two calendar years. An employer with more than 15 months coverage prior to January 1 of the immediate previous year for which rates are computed is eligible for an experience-rating contribution rate.

Definition of "experience period" (Section 1-227, Oklahoma Employment Security Act)

According to Section 1-227 of the Oklahoma Employment Security Act, "experience period" means:

- for any tax year occurring before January 1, 2007, the most recent three (3) consecutive completed calendar years occurring before the calendar year for which a tax rate is being calculated
- for any tax year occurring after December 31, 2006, the most recent twelve (12) consecutive completed calendar quarters occurring before July 1 of the year immediately preceding the year for which the employer's contribution rate is being calculated.

An employer's benefit wage ratio is the percentage of taxable payroll used to compute eligibility of claimants during the same three-year experience period immediately prior to

July 1 of the year for which the rates are being computed (a period less than three years for newly subject employers).

Computing an employer's contribution rate

Experience-rating contribution rates are computed for all eligible employers effective January 1 of each calendar year. The factors in the computation of an employer's contribution rate are:

- an employer's benefit wage ratio
- state experience factor
- conditional factor (if applicable)

Benefit wage ratio

An employer's benefit wage ratio is the percentage of taxable payroll used to compute eligibility of claimants during the three-year experience period as defined in Section 1-227 of the Oklahoma Employment Security Act prior to July 1 of the year immediately preceding the year for which the rates are being computed (a period less than three years for newly subject employers).

The following is an illustration of an employer's benefit wage ratio computation.

Experience rate period	Benefit wage charges	Taxable payroll on which taxes have been paid timely
2006-2007	$10,000.00	$80,000.00
2007-2008	$6,000.00	$100,000.00
2008-2009	$7,000.00	$115,000.00
	$23,000.00	**$295,000.00**

Employers benefit wage ratio = $ 23,000.00 divided by $295,000.00 = 0.07797 = 7.8%
The state experience factor is 42%.
Therefore, the employer's contribution rate is 3.3%.

State experience factor

The state experience factor is calculated by dividing total benefits paid from the Unemployment Insurance trust fund for the most recent 12 quarters by the total benefit wages of all employers for the same 12-quarter period. The following illustration shows how the state experience factor was determined for 2010. The illustration uses the new 12-quarter experience period for calculations.

State experience factor = $668,850,462.88 divided by $1,611,552,272.07 = 41.5%. Rounded to the next whole percent, the state experience factor for 2010 is 42%.

Conditional factor

Based on the solvency of the UI trust fund, the conditional factor is computed annually in accordance with the Oklahoma Employment Security Act, Section 3-113.

The method for determining an employer's earned experience rate involves comparing the employer's own benefit wage ratio to the state experience factor by the use of a table provided by law (http://www.ok.gov/oesc_web/documents/rates.pdf).

An employer will receive the maximum contribution rate of 5.5 percent (assuming there is no conditional factor in effect) if the employer's benefit wage ratio exceeds the maximum amount on the line for the current year's state experience factor.

Notifying employers of their tax rates

Legislative changes effective July 1, 2006, will alter the time frame to compute employer rates from the most recent three year calendar year to the most recent twelve (12) consecutive completed quarters occurring before July 1 of the year immediately preceding the year for which the employer's contribution rate is being calculated.

All employers who are eligible for an experience-rating are notified of their contribution rate by September 30 of the year previous to the effective rate year with Form OES-48, Notice of Employer's Contribution Rate. This rate is conclusive and binding upon the employer unless the employer files a written request for a review and redetermination within 20 days of the date that the OES-48, Notice of Employer's Contribution Rate was mailed, including the reasons for requesting the redetermination. The Oklahoma Employment Security Commission will provide for such review and issue a determination. The employer may appeal the determination within 14 days of its postmark.

Benefit wage charges

Benefit wage charges are the claimant's taxable base period wages reported by the employer to the OESC for use in determining the claimant's eligibility to receive benefits as a result of either total or partial unemployment. Benefit wage charges to an employer's account are used in computing the employer's contribution rate.

There may be instances where benefits are allowed, but the employer is not be assessed a benefit wage charge. More information on this can be found in Sections 3-105 and 3-106 of the Oklahoma Employment Security Act.

Notification of benefit wage charges

If a claimant is allowed benefits based on the reason for separation at the time an initial claim was filed, and a valid benefit year has been established, an OES-502, Notice of Benefit Wages is mailed to all base period employers showing the amount of base period wages being charged to them. The OES-502, Notice of Benefit Wages is issued when benefits are paid to a claimant for the fifth week of unemployment in the benefit year. A copy of this notice should be retained for an employer's permanent record, as no additional transcript will be furnished.

Benefit wages and year charged (Section 3-105, Oklahoma Employment Security Act)

When in any benefit year a claimant is paid benefits for his or her fifth compensable week of unemployment or is paid benefits as defined in paragraph (3) of Section 4-702 of the Oklahoma Employment Security Act, his or her taxable wages during his or her base period shall be treated, for the purpose of this part, as though they had been paid in the calendar year in which such benefits are paid.

Relief from benefit wages charged (Section 3-106, Oklahoma Employment Security Act)

A. The Oklahoma Employment Security Commission shall give notice to each base period employer of a claimant promptly after the claimant is issued his or her fifth week of benefits by the Commission or promptly after the Commission receives notice of the amounts paid as benefits by another state under a reciprocal arrangement. Notice shall be deemed given under this subsection when the Commission deposits the same with the United States Postal Service addressed to the employer at an address designated by the employer to receive the notice or at the employer's last-known address. Notice shall be presumed prima facie to have been given to the employer to whom addressed on the date stated in the written notice. This notice shall give the name and Social Security Number of the claimant, the date the claim was filed, and the amount of benefit wages charged to the employer in each quarter of the base period.

B. Within 20 days from the date stated upon the notice provided for in subsection A of this section, the employer may file with OESC written objections to being charged with the benefit wages upon one or more of the grounds for objection set forth in subsection G of this section. The employer's written objection must set forth specifically all of the following.
   - The date on which the employment was terminated
   - Full particulars as to the circumstances of the termination including the reason given by the individual for voluntarily leaving the employment, or the nature of the misconduct for which discharged, as the case may be

- Full particulars as to the regular scheduled part-time or full-time employment of the employee including the starting date, and ending date if any, of the continuous period of such part-time or full-time employment
- Such other information as called for by the notice

C. Upon receipt of the employer's written objections, OESC shall make a determination as to whether or not the employer is entitled to be relieved from the charging of benefit wages. OESC shall promptly notify the employer of that determination. Provided further, the 20-day time period for filing written objections with OESC as provided for in subsection B of this section may be waived for good cause shown.

D. Within 14 days after the mailing of the determination provided for in subsection C of this section, the employer may file with OESC or its representative a written protest to the determination and request an oral hearing de novo to present evidence in support of its protest. OESC or its representative shall, by written notice, advise the employer of the date of the hearing, which shall not be less than 10 days from the date of mailing of the written notice. At the discretion of OESC, this hearing shall be conducted by OESC or its representative appointed by OESC for this purpose. Pursuant to the hearing, OESC or its representative shall, as soon as practicable, make a written order setting forth its findings of fact and conclusions of law, and shall send it to the employer.

E. If any employer fails to file a written protest within the period of 14 days, as provided by subsection D of this section, then the determination shall be final, and no appeal shall thereafter be allowed.

F. The employer or OESC may appeal the order of OESC or its representative to the district court by filing a petition for review with the clerk of that court within 30 days after the date the order was mailed to all parties. The mailing date shall be specifically stated in the order.

G. The benefit wages charged to an employer for a given calendar year shall be the total of the benefit wages stated in the notices given to the employer by the Commission. Provided, that an employer shall be relieved of a benefit wage charge if the employer proves to the satisfaction of the Commission that the benefit wage charge includes wages paid by the employer to any employee or former employee, who meets one of the following conditions.
- The employee left employment with that employer, or with his or her last employer, voluntarily without good cause connected to the work.
- The employee was discharged from such employment for misconduct connected with his or her work.
- The employee was a regular scheduled employee of that employer prior to the week the employee separated from other employment, and continued to work for the employer through the fifth compensable week of unemployment in his or her established benefit year;
- The employee was separated from his or her employment as a direct result of a major natural disaster, declared as such by the President pursuant to the Disaster Relief Act of 1974, P.L. 93-288, and such employee would have been entitled to disaster unemployment assistance if he or she had not received unemployment insurance benefits.

- The employee was discharged by an employer for unsatisfactory performance during an initial employment probationary period. As used in this paragraph, "probationary period" means a period of time set forth in an established probationary plan which applies to all employees or a specific group of employees and does not exceed ninety (90) calendar days from the first day a new employee begins work. The employee must be informed of the probationary period within the first seven (7) work days. There must be conclusive evidence to establish that the individual was separated due to unsatisfactory work performance and not separated because of lack of work due to temporary, seasonal, casual, or other similar employment not of regular, permanent, and year-round nature.
- The employee left employment to attend training approved under the Trade Act of 1974 and is allowed unemployment benefits pursuant to Section 2-416 of the Oklahoma Employment Security Act.
- The employee was separated from employment for compelling family circumstances as defined in Section 2 of the Oklahoma Employment Security Act.

H. If an employer recalls an employee deemed unemployed as defined by the Oklahoma Employment Security Act, and the employee continues to be employed or the employee voluntarily terminates employment or is discharged for misconduct within the benefit year, the employer shall be entitled to have the benefit wage charged against the employer's experience rating for the employee reduced by the ratio of the number of weeks of remaining eligibility of the employee to the total number of weeks of entitlement.

I. An employer shall not be charged with benefit wages of a laid-off employee if the employer lists as an objection in a statement filed in accordance with subsection B of this section that said employee collecting benefits was hired to replace a United States serviceman or servicewoman called into active duty and laid-off upon the return to work by that serviceman or servicewoman. The Unemployment Insurance trust fund shall be charged with the benefit wages of the laid-off employee.

J. If the Commission receives a notice of amounts paid as benefits by another state under a reciprocal agreement, and the notice is received after three (3) years from the effective date of the underlying benefit claim, no benefit wage charge will be made against the employer identified in the notice, or if a benefit wage charge is made based on such a notice, the employer will be relieved of the charge when the facts are brought to the attention of the Commission (amended by SB 1175, effective November 1, 2009).

Relief from benefit wages charged - addendum (Section 3-106.1, Oklahoma Employment Security Act)

The benefit wages charged to an employer for a given calendar year shall be the total of the benefit wages stated in the notices given to the employer by the Commission. Provided that on and after April 19, 1995, an employer's benefit wages shall not include wages paid by the

employer to any employee who was separated from his or her employment as a direct result of a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment.

Separating employers and relief from benefit wages charged (Section 3-106.2, Oklahoma Employment Security Act)

A separating employer will not be charged with benefit wages, or will be relieved of the charge upon notification of the Oklahoma Employment Security Commission, if the former employee who is the subject of the charge was separated from employment under one of the circumstances listed in subsection G of Section 3-106 of the Oklahoma Employment Security Act.

Employer notification of action taken on a protested benefit wage charge

The employer is notified with a Notice of Cancellation of Benefit Wages if it is determined that the base period charge has been cancelled and will not be used in computing the employer's tax rate. However, if it is determined that the base period wage charge will be used, the employer will receive an OES-503, Notice of Determination to Base Period Employer. The employer can appeal this determination. The appeal must be in writing and postmarked within 14 days after the OES-503, Notice of Determination to Base Period Employer was mailed.

Reimbursement option (Section 3-803, Oklahoma Employment Security Act)

The option to reimburse the state Unemployment Insurance trust fund for regular unemployment and extended benefits is available to nonprofit organizations that have an exemption under Section 501(c)(3) of the IRS Code. This option is also available to governmental employers and Indian Tribes. Section 3-803 of the Oklahoma Employment Security Act provides that once an employer elects to reimburse, the employer must reimburse regardless of the reason for separation. Section 3-806 of the Oklahoma Employment Security Act provides that the amounts of reimbursement of benefits paid shall include amounts paid in error. An election to reimburse benefits paid shall be for a minimum of two (2) calendar years and thereafter until terminated.

New hire reporting

Purpose of new hire reporting and reporting requirements

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires employers to report certain information on their newly-hired employees to a designated state agency.

The Oklahoma Employment Security Commission (OESC) is the designated state agency in Oklahoma that receives these new hire reports. The Child Support Enforcement Division (CSED) of the Oklahoma Department of Human Services is the repository for Oklahoma's directory of new hires. Many states have selected their child support program as the designated state agency to receive the new hire reports. The Oklahoma Legislature determined that since employers are accustomed to reporting quarterly wage data to OESC, it would be less burdensome for employers to report their new hire reports to OESC as well. OESC and CSED have partnered together to develop the OES-112, New Hire Reporting Form, data file layout, and a pamphlet.

New hire reporting

New hire reporting is a process by which employers report information on newly-hired employees to OESC shortly after the date of hire. Employers play a key role in this important program by reporting all newly-hired employees to OESC which then forwards all new hire reporting information to the Oklahoma CSED.

Uses of new hire information

CSED will match new hire reports against their child support records to locate parents, establish a child support order, or enforce an existing order. Once these matches are done, Oklahoma will transmit the new hire reports to the National Directory of New Hires (NDNH). OESC may also use the state new hire information to detect and prevent erroneous benefit payments. In addition, the Department of Human Services (DHS) can conduct matches between the new hire database and other state programs to prevent unlawful or erroneous receipt of public assistance payments. The information provided will be used to match new hires against unemployment benefit claims to help detect and prevent fraudulent unemployment payments.

Benefits of new hire reporting for employers

A direct benefit to employers is the reduction and prevention of fraudulent unemployment and workers' compensation payments. Timely receipt of new hire data allows OESC to cross-match this data against its active unemployment claimant (UIC) files and either stop payments or recover erroneous payments. For example, although only 20 percent of the State of Tennessee's employers are currently required to report, Tennessee has saved over $11.4 million in UIC benefits since 1981. With 100 percent of employers reporting, as required by PRWORA, Tennessee and Oklahoma should save significantly more in the future. To ensure a correct match, it is important to provide both a name and social security number.

Deadline to report new hires

All newly-hired employees must be reported to OESC within 20 days of being hired if an employer is reporting by mail or fax. Employers who report electronically must report at least twice monthly, within at least 20 days of an employee being hired. "Date started to work" is defined as the first day services are performed by the employee for a wage.

Forms used to report new hires

Employers are encouraged to report new hires by either submitting reports by electronic media or by mailing or faxing a copy of the OES-112, New Hire Reporting Form (https://www.ok.gov/oesc/index.php?c=19). OESC and CSED request that all reports be sent electronically if possible. The easiest method for reporting is the direct online data entry available for use by employers who have internet access. Employers who have no internet access may use their own computer payroll or accounting system to capture the required data needed for new hire reporting. The requirements for reporting electronically are specified in the Electronic Reporting Specification Document (https://www.ok.gov/oesc/specs.html).

If an employer has no way to report electronically, they may complete the OES-112, New Hire Reporting Form and fax or mail it to the New Hire Unit. If faxing or mailing the form, it is suggested that an employer complete one form with their Federal Employer Identification Number (FEIN), Oklahoma Employer Account Number, company name, payroll address and telephone number and then make several photocopies of this form. This way, an employer only needs to add employee specific information. Because not all legally required data is included on W-4 forms, it is not recommended that employers use W-4s for new hire reporting purposes.

Security of new hire data

Security and privacy of new hire data are important issues for all those involved in the implementation of this nationwide program. Oklahoma law requires safeguarding confidential information. All data will be sent from Oklahoma to the National New Hire Directory over secure and dedicated lines. Federal law requires that the Secretary of the Department of Health and Human Services establish and implement safeguards to protect the integrity and security of information in the National Directory of New Hires and to restrict access to and use of the information to authorized persons and purposes.

Submitting new hire data

New hire data may be submitted in a variety of ways.

- OESC recommends that businesses which have internet access use the convenient online new hire reporting system (http://www.ok.gov/oesc). Data is entered directly into the system for each employee and may be entered at the employer's convenience by entering as many or as few records at a time as desired.
- Businesses who currently have their own computerized personnel or accounting system in place and who gather all of the required data for their employees may wish to submit electronically. A file layout is provided at http://www.ok.gov/oesc/specs.html Employers may create their file using the provided layout and submit the file through our online process or copy to magnetic tape or diskette according to the instructions and mail to the address below.
- Finally, businesses that have no internet access may wish to download our printed form to be filled in by hand and mailed or faxed to OESC. The blank form is available for printing in two formats. Information should be hand printed clearly and completely in pen on each form. Fax or mail to

  Oklahoma New Hire Reporting Center
  P.O. Box 52004
  Oklahoma City, Oklahoma 73152-2004
  Toll free fax: (800) 317-3786
  Local fax: (405) 557-5350

New hire reporting for multi-state employers

Multi-state employers have two reporting options.

- Report newly-hired employees to the state in which they are working, following the new hire regulations and requirements of each state to which the employer will report.
- Select one state where the employer has employees working and report all new hires to that state electronically or magnetically.

Multi-state employers that choose to report to one state

Employers may not report new hires using both multi-state and single-state methods. They must choose one or the other.

If an employer chooses to report new hire data on all employees to only one of the states in which they have a presence, they must comply with the following requirements.

- Notify the Secretary of Health and Human Services, in writing, specifying which state the employer has designated as recipient of all their new hire information for their entire business.

  The notification should be mailed to
  Department of Health and Human Services
  Multistate Employer Registration
  Office of Child Support Enforcement
  P.O. Box 509
  Randallstown, MD 21133
  (202) 401-9267

  At a minimum, the employer should include the employer's name and address. The following optional information is also recommended.
  - Federal Employer Identification Number (FEIN)
  - Employer phone number
  - States in which the company does business
  - Estimated number of new hires per year
  - Corporate point of contact for clarification of data

- Transmit all new hire information either magnetically or electronically in accordance with the designated state's requirements. An employer does not need to report the required elements from each state in which they have employees. Employers are only asked to report what is required by the state they have selected for reporting purposes.

Please note, however, that if an employer chooses to report to one state, the information may not be available to the employee's work state for purposes of detecting fraud in the unemployment insurance or workers' compensation programs.

Notification to states other than the one to which a multi-state employer chooses to report

The National Directory of New Hires (NDNH) will maintain a list of those multi-state employers that have elected to use single-state notification. The designated reporting locations of those employers will be made available to all states so they can be aware of where their state's new hires are being reported.

Additional information on new hire reporting

- If you have questions about new hire reporting, call the New Hire Unit at (405) 557-7133, toll free at (800) 317-3785 or via e-mail at webmaster@OESC.state.ok.us.
- Questions regarding income assignments or other matters relating to Child Support should be directed to the Department of Human Services, Child Support Enforcement Division, P.O. Box 53552, Oklahoma City, OK 73152 or call (405) 522-5871.

Unemployment insurance and employers

Keeping unemployment insurance costs down

There are a number of strategies that employers can use to minimize costs associated with unemployment insurance.

- Protest all claims where the separation was due to a reason other than lack of work. Also protest a claim anytime the claimant is given severance pay in accordance with company policy. There is no guarantee that a timely response will result in disqualification. However, since the employer must prove misconduct in a discharge case, failing to protest or provide information could easily result in the allowance of benefits. This is because the employer must prove misconduct connected with the work on discharge cases. If there is no employer information then misconduct will only be proven if the claimant gives self-disqualifying information.
- Have written policies and procedures. A claimant cannot be denied for failing to follow policy or procedure if they do not know what that policy or procedure is.
- Document everything. If a new policy is created, have all employees sign a receipt acknowledging they have been advised of the policy. If a verbal warning is given to an employee, document the fact that the warning was given. If the employee is given one final chance after an incident takes place, document the fact that if it occurs again the employee will be discharged.
- Keep all account information up to date. OESC sends notices to the addresses listed on an employer's Oklahoma account number. If the address information is not updated, and the notice goes to an incorrect address, the notice will not be re-mailed, and the employer will lose their right to be an interested party to any subsequent determinations. Questions regarding employer account information can be directed to (405) 557-7226. Please note that all change requests must be submitted in writing.
- Pay employer taxes on time. If taxes are not paid on time, the employer will only receive 90 percent of the FUTA credit.

The unemployment process

When an individual files a new claim for unemployment benefits, OESC notifies the last covered employer of 15 or more working days. When a claimant returns to work during their benefit year and is laid of or discharged from the new job, the claimant can re-open their current claim, even if the claimant wasn't employed for 15 working days. In this case, the employer is sent an OES-617, Notice of Application for Unemployment Benefits and is given 10 days from the mail date of the form to protest benefits. If the claimant is separated from employment for any reason other than lack of work, an investigation will be conducted, and a determination will be issued allowing or denying unemployment benefits in accordance with state law. The employer will only be an interested party to the determination if a timely, adequate response is received in accordance with Section 2-503 of the Oklahoma Employment Security Act. Employers who are not interested parties will not receive a copy of the determination and will not have appeal rights to any subsequent determinations.

Agency rules require that if OESC has not received a protest by the tenth day after the claim is filed, the agency must attempt to obtain separation information on all claims where the reason for separation was other than "lack of work." This is so OESC can give due process to all parties involved in the claim. If no response is received to the 10-day call, a determination will be issued based on the available information. Please note that responding to a 10-day call does not make an employer an interested party to any subsequent determinations. This means that if the claimant is allowed benefits, the employer will not receive the notice of determination or have appeal rights.

Upon payment of the fifth week of benefits, an OES-502, Notice of Benefit Wage Charge will be mailed to all base period employers. This gives the employers an opportunity to challenge the benefit wage charge (see Section 3-106, Oklahoma Employment Security Act). Response to an OES-502 will not make the employer an interested party to any previously adjudicated issues or re-open the separation issue for re-determination.

In addition, OESC also addresses such things as deductible pay (severance, retirement, pay in lieu of notice, holiday or vacation pay), ability to work, availability for work, failure to respond to requests or provide information, and untimely filing of benefits.

Protesting benefits

When an employer receives a notice of application, they will have 10 days from the postmark date of the notice to protest the claim. If the tenth day falls on a Saturday, Sunday or holiday, the employer will have until the next working day. If an employer does not protest by the tenth day, they will not be considered an interested party to any subsequent determinations.

When protesting claims, employers should provide specific facts regarding the separation. Protests that only say, "Discharged due to misconduct" fall short of providing useful information. OESC needs to know what caused the separation on that particular day, whether the claimant had received any warnings, and what the claimant should have done that could have prevented the separation. Failing to give specific information could cause an employer to lose their right to be an interested party to any subsequent determination.

Claims, notices and objections (Section 2-503, Oklahoma Employment Security Act)

- Claims for benefits shall be made in accordance with such rule as the Oklahoma Employment Security Commission may prescribe.
- Promptly after an initial claim or an additional initial claim is filed, OESC shall give written notice of the claim to the last employer of the claimant for whom he or she

worked at least 15 working days. Promptly after OESC is notified of the claimant's separation from an employment obtained by a claimant during a continued claim series, OESC shall give written notice of the claim to the last separating employer. Notices to separating employers during a continued claim series will be given to the last employer in the claim week without regard to the length of employment.

- Promptly after the claim is paid for the fifth week of benefits, OESC shall give written notice of the claim to all other employers of the claimant during the claimant's base period. The notice will be given pursuant to Section 3-106 of the Oklahoma Employment Security Act.
- Notices shall be deemed given when OESC deposits the same in the United States mail addressed to the employer's last know address. Notice shall be presumed prima facie to have been given to the employer to whom addressed on the date stated in the written notice.
- Within 10 days after the date on the notice or the date of the postmark on the envelope in which the notice was sent, whichever is later, an employer may file with OESC at the address prescribed in the notice written objections to the claim setting forth specifically the facts which
  - make the claimant ineligible for benefits under Sections 2-201 through 2-209 of the Oklahoma Employment Security Act
  - disqualify the claimant from benefits under Sections 2-401 through 2-418 of the Oklahoma Employment Security Act
  - relieve such employer from being charged for the benefits wages of such claimant.

Mailing protests

Protests should be mailed to
Oklahoma Employment Security Commission
P.O. Box 52006
Oklahoma City, OK 73152-2006

Faxing protests

Faxing protests is the quickest way to submit the protest. Protests to the initial claim filing can be faxed to (405) 962-7524. Please remember, once the protest is faxed, there is no need to mail it.

Appealing determinations

Employers can appeal any determination that they do not agree with. Appeals normally take three to four weeks, but due to the volume of claims that are being filed, some take

longer. Most appeals will be heard over the telephone. Employers are given a date and time to call a toll free number and are then connected to the hearing officer and the claimant, if the claimant is in attendance.

If an employer has witnesses that they want to attend the hearing, the employer must notify the Appeals Tribunal before the date of the hearing. It is best to do this prior to five days before the hearing. The same is true if an employer has additional information that they want to present at the appeal. Employers will only be allowed to introduce new evidence if the other party has an opportunity to see that evidence prior to the appeal or if the claimant agrees to let the employer present the evidence. Witnesses should have first-hand knowledge of the incident(s) in question. A home office manager that was not directly involved in a situation will not be allowed to present first-hand testimony on a particular situation. The same holds true for third-party representatives.

Appeals can be mailed, faxed or emailed.

Mail
OESC Mail Support
P.O. Box 52006
Oklahoma City, OK 73152-2006

Fax
(405) 962-7524

E-mail
Support@oesc.state.ok.us

When an employer files an appeal, they are mailed a booklet regarding appeal procedures and copies of all documents relating to the determination.

Burden of proof

When an individual is discharged, the burden of proof lies with the employer to show the discharge was for misconduct connected with the work. When an individual quits, the burden of proof lies with that individual to show good cause for quitting.

Non-separation issues

In addition to separation (quit and discharge) issues, there are also a variety of non-separation issues that may result in disqualification. The majority of these do not affect the employer because they are issues raised during the claims process. The employer will only be included as an interested party on issues pertaining to employment and if a timely adequate response was received to the OES-617, Notice of Application for Unemployment Compensation.

Voluntary quit

Sections 2-404, 2-404.1 and 2-404.2 of the Oklahoma Employment Security Act deal with quitting. Sections 2-210 and 2-405 of the Act establish good cause for quitting.

Determining good cause (Section 2-405, Oklahoma Employment Security Act)

"Good cause" for voluntarily leaving work may include, among other factors, the following:

- A job working condition that had changed to such a degree it was so harmful, detrimental or adverse to the individual's health, safety or morals that leaving such work was justified.
- If the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his or her right to retain the employment when there is a layoff, has elected to be separated and the employer has consented thereto.

Eligible separations, compelling family circumstances (Section 2-210, Oklahoma Employment Security Act)

In addition to the eligibility provisions provided by the Oklahoma Employment Security Act, an individual shall be eligible to receive unemployment benefits, if monetarily and otherwise eligible, if the claimant was separated from work due to compelling family circumstance. For purposes of this section, the following definitions apply.

- "Immediate family member" means the claimant's spouse, parents and minor children.
- "Illness" means a verified illness which necessitates the care of the ill person for a period of time longer than the employer is willing to grant paid or unpaid leave.
- "Disability" means a verified disability which necessitates the care of the disabled person for a period of time longer than the employer is willing to grant paid or unpaid leave. Disability encompasses all types of disability, including
  - mental and physical disabilities
  - permanent and temporary disabilities, and
  - partial and total disabilities.
- "Compelling family circumstance" means
  - if the claimant was separated from employment with the employer because the illness or disability of the claimant and, based on available information, the Oklahoma Employment Security Commission finds that it was medically necessary for the claimant to stop working or change occupations

- the claimant was separated from work due to the illness or disability of an immediate family member
- if the spouse of the claimant was transferred or obtained employment in another city or state, and the family is required to move to the location of that job that is outside of commuting distance from the prior employment of the claimant, and the claimant separates from employment in order to move to the new employment location of the spouse
- if the claimant separated from employment due to domestic violence or abuse, verified by any reasonable and confidential documentation, which causes the individual to reasonably believe that the individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family
- if the claimant separated from employment to move with the claimant's spouse to a new location, and if the spouse of the claimant meets all of the following requirements:
  a. was a member of the U.S. Military, the U.S. Military Reserve, or the National Guard
  b. was on active duty within 90 days of the date of discharge
  c. has a service-connected disability
  d. was discharged under honorable conditions from the military service
  e. takes up residence at a location more than 50 miles away from the claimant's former employer for the purpose of reentering civilian life.

The Oklahoma Employment Security Act also contains sections of law that deal with the specific issues of individuals working for temporary agencies (Section 2-404.1) and individuals who are hired for a specific duration of time (Section 2-404.2).

Employees working for temporary agencies (Section 2-404.1, Oklahoma Employment Security Act)

For the purposes of this section, the following definitions apply.

- "Temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects.
- "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.

A temporary employee of a temporary help firm will be deemed to have left his or her last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee will not be deemed to have left work voluntarily

without good cause connected with the work unless the temporary employee has been advised of the obligation to contact the temporary help firm on completion of assignments and that unemployment benefits may be denied for failure to do so.

For the purposes of the Oklahoma Employment Security Act, the temporary help firm is deemed to be the employer of the temporary employee. This means that regardless of the particular business requirement of the temporary agency, if the claimant contacts the temporary service upon the completion of an assignment and no work is available, the claimant will be considered to be laid off due to a lack of work.. OESC does not require that the claimant continue to contact the temporary service for a certain number of days.

In addition, the claimant must be made aware of the requirement to check in upon the completion of an assignment. The objective of the claimant is also considered.

Employees hired for a specific, limited duration of time (Section 2-404.2, Oklahoma Employment Security Act)

- When an employer employs a worker for a limited duration of time *specified by the employer*, the worker is considered to have been laid off due to lack of work at the end of the time period set by the employer, provided that the worker's separation was due only to the completion of the work or the expiration of the time period.
- When an employer employs a worker for a limited duration of time *specified by the worker*, the worker is considered to have voluntarily quit work at the end of the time period set by the worker, provided that the worker's separation was due only to the expiration of the time period.

This means that if the employee sets the dates of employment then, upon completion of the length of time specified by the employee, the employee is considered to have quit the job. If the employer sets the dates of employment then, upon completion of the length of time specified by the employer, the employee is considered to have been laid off due to a lack of work.

If the individual separates before the agreed upon last day of employment, then OESC looks at why the individual separated and makes a ruling upon the reason for separation.

Discharges (Section 2-406, Oklahoma Employment Security Act)

An individual shall be disqualified for benefits if he has been discharged for misconduct connected with his last work, if so found by OESC. Disqualification under this section of the Oklahoma Employment Security Act shall continue for the full period of unemployment next

ensuing after the individual has been discharged for misconduct connected with his work and until such individual has become reemployed and has earned wages equal to or in excess of 10 times his weekly benefit amount.

Discharge for refusal to undergo drug and alcohol testing (Section 2-406.1, Oklahoma Employment Security Act)

An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for benefits pursuant to provisions of Section 2-406 of the Oklahoma Employment Security Act. In any claim brought by the discharged employee for compensation, a copy of the drug or alcohol test shall be accepted as prima facie evidence of the administration and results of the drug or alcohol test.

Cases involving positive drug or alcohol tests (Section 2-406.1, Oklahoma Employment Security Act)

In order to establish that the drug or alcohol test of an unemployment insurance claimant was conducted in accordance with the Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §551 through 565, the employer must produce the following documentation.

- Documentation of a positive test result issued by the testing facility that performed the test
- Documentation of the chain of custody of the testing sample from the point of collection to the testing facility
- The medical review officer's certification of proper testing standards and procedures
- A statement concerning the circumstances, as set out in 40 O.S. §554, under which the testing was requested or required
- A copy of the employer's drug testing policy as required by 40 O.S. §555
- Documentation showing that the employer provides an employee assistance program as required by 40 O.S. §561
- Any evidence relevant to the adjudication of questions of fact or law regarding drug or alcohol testing that may be an issue in the claim for unemployment benefits

The claimant must be tested for a valid reason. Valid reasons include but are not limited to

- testing of a new applicant.
- testing under reasonable suspicion
- post-accident testing
- random testing
- scheduled periodic testing

If an employer does not have an established drug testing policy that conforms to the Standards for Workplace Drug and Alcohol Testing Act, and that employer discharges someone for testing positive for drugs, the discharged individual cannot be disqualified from receiving unemployment insurance because of the positive drug test.

Deductible pay (Section 1-217, Oklahoma Employment Security Act)

Certain earnings, such as payments for severance and holidays, can be deducted from a claimant's unemployment benefit payments. Earnings are deductible the week in which they are received. OESC requires that all earnings be reported but only earnings over $100 are deducted. For example, if the claimant had $115 in earnings, OESC would deduct only $15 from the claimant's weekly benefit check.

Severance pay is only deductible if it was paid in accordance with company policy or regulation. If there is no policy or regulation, then it will not be deducted. Severance pay is only deductible during the week of receipt. For example, if a claimant receives a lump sum severance payment of $10,000 on September 23, 2009, the payment is deductible only for week ending September 26, 2009. If the claimant receives payments on a continuing basis, such as every other week for eight weeks, the payment is deductible only during the weeks of receipt. In this situation, the claimant will have deductible severance the first week, none the second, deductible severance the third, none the fourth, and so on. Severance pay is also subject to the $100 rule.

Vacation pay is only deductible if the claimant has a definite return to work date. Holiday pay is only deductible the week in which the holiday falls.

Able and available to work (Section 2-205, Oklahoma Employment Security Act)

The claimant must be able and available for work each week. Any individual who is able or available for work the majority of the week (three out of the five normal workdays) is considered able and available.

Retirement pay (Section 2-411, Oklahoma Employment Security Act)

Retirement pay is deductible only if the employer contributed 100 percent to the retirement account. Retirement pay is not subject to the $100 rule. If paid in one lump

sum, retirement pay is deductible on the date of receipt. If paid on a continuing basis, the payments will be converted to a weekly amount by using 7/30 of the monthly award, and that amount will be deducted weekly. If the payment is rolled over in accordance with IRS regulations, no deduction will be made.

Unemployment benefits

Unemployment benefit compensation

Under the Oklahoma Employment Security Act, payments of money may be made under certain conditions to unemployed individuals from an unemployment compensation fund contributed by employers subject to the Act. These payments are known as unemployment benefit compensation.

Qualifying for unemployment benefits

In Oklahoma, a claimant can qualify for unemployment benefits if, during the claimant's base period, the claimant received wages from employers subject to the Oklahoma Employment Security Act amounting to:

- not less than $1,500, and
- one and one-half times the amount of wages earned during the quarter of the base period in which such wages were highest.

However, any claimant with the maximum or more of taxable base period wages is eligible even if these wages were all in one quarter. After the beginning of a previous benefit year in which benefits were paid, a claimant's earnings must equal 10 times the weekly benefit amount in the new benefit year.

Base period

The base period is the first four of the last five completed calendar quarters immediately preceding the first day of a claimant's benefit year.

Benefit year

A benefit year is a period of one year that begins on Sunday of the week the claimant first files a valid claim.

Valid claim

A valid claim is a claim filed in accordance with the rules of the Oklahoma Employment Security Commission by a claimant who has the necessary qualifying wages.

Applying for unemployment benefits

An application for benefits can be made by telephone or over the Internet. Once an initial claim is filed, an OES-617, Notice of Application for Unemployment is mailed to the last covered employer for whom the claimant worked at least 15 working days. The claimant must continue to file claims each week as directed by the Oklahoma Employment Security Commission. On each continued claim filed, the claimant must certify as to his/her eligibility to receive unemployment compensation.

Requirements for receiving unemployment benefits

In order to be eligible for unemployment benefits, a claimant must be all of the following.

- Separated from work or working less than full time
- Registered and diligently seeking work during each week in which he/she applies for benefits
- Able to work and available to perform work duties in keeping with education, training and experience

A claimant's self-employment cannot interfere with their availability for employment or the type of work they are seeking. In addition, all self-employment wages must be reported. The claimant cannot be working on a commission or receiving or seeking unemployment benefits from another state or the United States.

Maximum unemployment benefit amounts

The unemployment benefit amount is determined by the qualifying wages paid to a claimant during the claimant's base period. The benefit amounts are calculated each year. In Oklahoma, weekly payments range from a minimum of $16 to the current year's maximum. Computation of the maximum benefit amount changes each year based on the conditional factor associated with the state's Unemployment Insurance trust fund. The number of weeks a claimant can receive unemployment benefits during his/her benefit year is limited to a maximum of 26 weeks.

Voluntary quits and unemployment benefits

A claimant who voluntarily leaves their last job without good cause connected to the work is subject to disqualification from benefits. The burden of proof for good cause connected

to the work in a voluntary quit is on the claimant. For a claimant to establish benefits after a disqualification, they must be re-employed and earn wages equal to or in excess of 10 times their weekly benefit amount. However, there exist certain circumstances that are not work related that will result in allowance of benefits.

Discharge for misconduct and unemployment benefits

A claimant discharged from their last work for misconduct connected to the work is subject to disqualification for benefits. In cases of discharge for misconduct, the burden of proof to establish misconduct is on the employer. To lift the disqualification, the claimant must be re-employed and earn wages equal to or in excess of 10 times their weekly benefit amount.

Misconduct

Misconduct is defined as "an act or course of conduct evidencing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of the standard of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such a degree or reoccurrence to manifest equal culpability, wrongful intent or evil design, or to show an intentional or substantial disregard of the employer's interest or of the employee's duties and obligations to his employer." (*Vester v. Board of Review of the Oklahoma Employment Security Commission*)

Offers of suitable work

An individual is disqualified from receiving benefits if he/she fails to:

- diligently search for suitable employment at a pay rate generally available in that area and keeping with his/her prior experience, education and training
- apply for work with employers who could reasonably be expected to have work available within the claimant's general geographic area
- present himself/herself as an applicant in a manner designed to encourage consideration for employment
- accept an offer of work from an employer, including any former employer
- apply for or accept an offer of work when so directed by the Commission/Employment Service
- accept employment pursuant to a hiring hall agreement when so offered

Any individual violation of the first three stipulations is disqualified for the week in which the violation occurred. An individual in violation of the last three stipulations is disqualified for the week in which the violation occurred, and disqualification will continue until the individual becomes re-employed and has earned wages equal to or in

excess of 10 times his/her weekly benefit amount. Any individual violating the last three requirements due to illness, death of a family member or other circumstances beyond his/her control will be disqualified for regular benefits under this section only for the week of the violation. Further, any individual disqualified for the week of the occurrence of such circumstances beyond his/her control is not eligible for extended benefits for the purposes of sections 2-701 through 2-724 of the Oklahoma Employment Security Act until such individual has become re-employed and has earned wages equal to at least 10 times his/her weekly benefit amount.

Other conditions that can prevent a claimant from receiving unemployment benefits

An individual who ceases work due to a labor dispute or strike against their employer is ineligible for benefits if they participate in the dispute and voluntarily remain out of employment for purposes of the dispute. This applies to all circumstances except where the employer has locked out the employees. Labor dispute issues are sent to the Appeal Tribunal for decisions.

A claimant can also be denied benefits:

- in cases involving fraud or misrepresentation
- if the claimant is not able and/or available for work in keeping with their prior work experience, training and education
- between two successive seasons, if benefits are based on services performed as a professional athlete, and services were performed in the first season, and there is reasonable assurance the claimant will perform services in the second season
- if the claimant is an alien not lawfully permitted to work in the United States
- between two academic years or terms, if benefits are based on services performed as a school employee, and there is reasonable assurance that the claimant will perform such services in the second academic year or term. School employees are ineligible during customary vacation periods or holiday recesses if they have reasonable assurance of returning to work
- if the claimant is enrolled in scheduled school activities and is not willing to quit school, adjust their schedule or change shifts to secure employment.

Benefit payments will also be denied or reduced if the claimant receives any of the following payments or compensation.

- Dismissal and/or severance payments required by law or contract
- Unemployment benefits under an unemployment compensation law of another state or the U.S.
- Pension or retirement pay based on previous work, if such payment is under a plan maintained or contributed to by a base period employer

- Wages from partial employment
- Vacation and/or sick leave payments in a circumstance when required to return to work on a specific date or at the end of a specific vacation

Employer notification

In accordance with Section 2-503 of the Oklahoma Employment Security Act, the last employer for whom the claimant worked at least 15 working days is notified when the claimant begins receiving unemployment benefits. An OES-617, Notice of Application for Unemployment Compensation is mailed to the separation employer. One important factor to protect an employer is for the employer to respond to all notices in a timely manner with complete information. Appeal rights are based on written responses.

Protesting the payment of an unemployment claim

Many employers may not be aware of the requirements of responding to notices of unemployment claims. This section addresses specifically Section 2-503(E) of the Oklahoma Employment Security Act, which states as follows:

> E. Within ten (10) days after the date on the notice or the date of the postmark on the envelope in which the notice was sent, whichever is later, an employer may file with the Commission at the address prescribed in the notice written objections to the claim setting forth specific facts which
> 1. make the claimant ineligible for benefits under Section 2-201 through 2-209 of this title;
> 2. disqualify the claimant from benefits under Section 2-401 through 2-418 of this title; or
> 3. relieve such employer from being charged for the benefits wages of such claimant.

If an employer protests with inadequate information, they will receive a decision in the mail stating that their protest has been received, but there is inadequate information surrounding the separation to make the employer an interested party. As a result, the employer will not receive a copy of the separation determination and will not have appeal rights if they believe the claim is allowed in error.

After receiving an OES-617, Notice of Application for Unemployment Compensation, an employer can file a protest if any reason exists showing the claimant should be denied benefits. A written reply must be postmarked within 10 days of the date the OES-617, Notice of Application for Unemployment Compensation was mailed. If an employer does not reply within 10 days, they may be contacted for information on job separation and other subjects. Being contacted does not mean an employer is considered an interested party.

If the claimant voluntarily left work or was discharged by the employer, the employer's protest should include full and complete facts. In case of a voluntary quit, the reason the individual gave for leaving should be included as well as an explanation as to why the employer does not think the reason was justified. In case of a discharge for misconduct, an employer should explain the nature of the misconduct in detail.

Reply to an employer's protest

When an employer's timely protest is received that complies with Section 2-503 of the Oklahoma Employment Security Act, the employer becomes an interested party to the claim and will be mailed a Notice of Determination in regard to the claim. This determination is furnished on the Notice of Determination. If the claimant does not have sufficient wages within their base period to qualify for unemployment compensation, the employer will be notified by letter.

Appealing a determination

The employer or the claimant may file an appeal if either party disagrees with the determination. The appeal must be in writing and postmarked or faxed within 10 days from the date the determination was mailed. If no appeal is filed within the 10-day period, the determination becomes final, and benefit payments will be made or denied based on the determination.

Once an appeal is filed

When an appeal is received from either the claimant or the employer, the Appeal Tribunal schedules a hearing and notifies all interested parties of the time and place of the hearing. Testimony in these hearings is under oath and recorded. An Administrative Hearing Officer considers the record and renders a decision. Copies of the decision are mailed to all interested parties. Further appeal of this decision may be made to the Board of Review within 10 days from the date of the decision was mailed. After the opinion of the Board of Review is issued, further appeal may be made within 10 days to the district court having jurisdiction.

Contact information

OKLAHOMA EMPLOYMENT SECURITY COMMISSION

P.O. Box 52003
Oklahoma City OK 73152
Phone: (405) 557-7200
Web: http://oesc.ok.gov

UNEMPLOYMENT INSURANCE

Employer Contribution Unit

EZ TAX EXPRESS Help desk	(405) 557-5452 (405) 557-7141
EMPLOYER ASSISTED CLAIMS Partials and mass layoff	(405) 962-7584
CONTRIBUTIONS Employer appeals of tax issues	(405) 557-7131
STATUS New employers, address changes	(405) 557-7226
RATES Employer contribution rates	(405) 557-7222
TAX COMPLIANCE Quarterly reports, payments, amended reports, Notice of Non-receipt, FUTA certifications	(405) 557-5331
COLLECTIONS Tax warrant releases, payment plans, interest/penalty waivers	(405) 557-7253
WAGE CHARGE Notice of Benefit Wages, wage objections, recall credit	(405) 557-7140
TAX ENFORCEMENT	(405) 557-5477
OKLAHOMA JOBLINK Post jobs, find qualified workers, research career info, get help with job openings & much more!	www.oklahomajoblink.com

LIENS

§42-141. Right to lien - Priority - Enforceablility against property - Constructive notice.

Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vines, plants or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for buildings, altering, or repairing any fence or footwalk in or upon said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such trees, vines, plants or hedges, the building of such fence, footwalk or sidewalks, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this act shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or the first use of the rental equipment on said land.

R.L. 1910, § 3862; Laws 1919, c. 258, p. 367, § 1; Laws 1923, c. 54, p. 97, § 1; Laws 1977, c. 207, § 6, eff. Oct. 1, 1977; Laws 1980, c. 216, § 1, emerg. eff. May 30, 1980.

§42-141.1. Transfer of records, funds, and powers and duties to county clerk.

On the effective date of this act, the records, funds and powers and duties relating to the filing of mechanics' and materialmen's liens in the office of the court clerk in

each county of this state shall be transferred to the office of the county clerk. The county clerk shall thereafter exercise all such powers and duties formerly performed by the court clerk relating to such liens.
Laws 1977, c. 207, § 3, eff. Oct. 1, 1977.

§42-142. Statement to be filed.

Any person claiming a lien as aforesaid shall file in the office of the county clerk of the county in which the land is situated a statement setting forth the amount claimed and the items thereof as nearly as practicable, the names of the owner, the contractor, the claimant, and a legal description of the property subject to the lien, verified by affidavit. Such statement shall be filed within four (4) months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract as aforesaid; and if the claim be for the planting of any trees, vines, plants, or hedge, such statement shall be filed within four (4) months from such planting. Immediately upon the receipt of such statement the county clerk shall enter a record of the same against the tract index and in a book kept for that purpose, to be called the mechanics' lien journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", "Legal description of property", and "Remarks", and the clerk shall make the proper entry in each column.
R.L. 1910, § 3863; Laws 1977, c. 207, § 7, eff. Oct 1, 1977; Laws 1978, c. 133, § 3, eff. Oct. 1, 1978; Laws 1980, c. 216, § 2, emerg. eff. May 30, 1980.

§42-142.1. Enforcement of lien against owner-occupied dwelling - Notice to owner.

No lien arising under the provisions of Sections 141 through 153 of this title which affects property presently occupied as a dwelling by an owner shall be enforceable unless, prior to the first performance of labor or the first furnishing of materials by the lien claimant, the original contractor, subcontractor, laborer, or materialman shall have provided to one of the owners a written notice which shall include substantially the following language:

NOTICE TO OWNER

YOU ARE HEREBY NOTIFIED THAT ANY PERSON PERFORMING LABOR ON YOUR PROPERTY OR FURNISHING MATERIALS FOR THE CONSTRUCTION, REPAIR, OR IMPROVEMENT OF YOUR PROPERTY WILL

BE ENTITLED TO A LIEN AGAINST YOUR PROPERTY IF HE IS NOT PAID IN FULL, EVEN THOUGH YOU MAY HAVE PAID THE FULL CONTRACT PRICE TO YOUR CONTRACTOR. THIS COULD RESULT IN YOUR PAYING FOR LABOR AND MATERIALS TWICE. THIS LIEN CAN BE ENFORCED BY THE SALE OF YOUR PROPERTY. TO AVOID THIS RESULT, YOU MAY DEMAND FROM YOUR CONTRACTOR LIEN WAIVERS FROM ALL PERSONS PERFORMING LABOR OR FURNISHING MATERIALS FOR THE WORK ON YOUR PROPERTY. YOU MAY WITHHOLD PAYMENT TO THE CONTRACTOR IN THE AMOUNT OF ANY UNPAID CLAIMS FOR LABOR OR MATERIALS. YOU ALSO HAVE THE RIGHT TO DEMAND FROM YOUR CONTRACTOR A COMPLETE LIST OF ALL LABORERS AND MATERIAL SUPPLIERS UNDER YOUR CONTRACT, AND THE RIGHT TO DETERMINE FROM THEM IF THEY HAVE BEEN PAID FOR LABOR PERFORMED AND MATERIALS FURNISHED.

Laws 1980, c. 359, § 1, eff. Oct. 1, 1980; Laws 1982, c. 247, § 1, operative Oct. 1, 1982.

§42-142.2. Repealed by Laws 2005, c. 477, § 3, eff. Nov. 1, 2005.

§42-142.3. Person deemed not to be original contractor, laborer or materialman.

Any person who performs labor directly for or furnishes material directly to an owner of property used by the owner or a co-owner as a dwelling, under circumstances which an owner is liable directly to a laborer or supplier, shall not be deemed an original contractor, laborer or materialman for purposes of Sections 142.1 through 142.5 of this title.

Added by Laws 1980, c. 359, § 3, eff. Oct. 1, 1980.
Amended by Laws 1995, c. 160, § 1, eff. Nov. 1, 1995.

§42-142.4. Fraudulent statement - Felony.

Any original contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling, upon conviction, shall be guilty of a felony.

Added by Laws 1980, c. 359, § 4, eff. Oct. 1, 1980.
Amended by Laws 1997, c. 133, § 458, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 458 from July 1, 1998, to July 1, 1999.

§42-142.5. Satisfaction of notice.

The written notice required in Section 1 of this act shall be satisfied by furnishing one notice during the course of construction or during the course of the business transaction in which the labor or materials are furnished. Laws 1980, c. 359, § 5, eff. Oct. 1, 1980.

§42-142.6. Pre-lien notice - Requirements - Affidavit - Penalties.

A. For the purposes of this section:

1. "Claimant" means a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of Title 42 of the Oklahoma Statutes; and

2. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

B. 1. Prior to the filing of a lien statement pursuant to Section 143.1 of Title 42 of the Oklahoma Statutes, but no later than seventy-five (75) days after the date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and owner of the property a pre-lien notice pursuant to the provisions of this section.

2. The provisions of this section shall not be construed to require:

a. a pre-lien notice with respect to any retainage held by agreement between an owner, contractor, or subcontractor, or

b. more than one pre-lien notice during the course of a construction project in which material, services, labor, or equipment is furnished.

A pre-lien notice sent in compliance with this section for the supply of material, services, labor, or equipment that entitles or may entitle a claimant to lien rights shall protect the claimant's lien rights for any subsequent supply of material, services, labor, or equipment furnished during the course of a construction project.

3. The pre-lien notice requirements shall not apply to a claimant:

a. whose claim relates to the supply of material, services, labor, or equipment furnished in connection with a residential project. For the purposes of this subparagraph, the term "residential" shall

mean a single family or multifamily project of four or fewer dwelling units, or

b. whose aggregate claim is less than Two Thousand Five Hundred Dollars ($2,500.00).

4. The pre-lien notice shall be in writing and shall contain, but not be limited to, the following:

a. a statement that the notice is a pre-lien notice,

b. the complete name, address, and telephone number of the claimant, or the claimant's representative,

c. the date of supply of material, services, labor, or equipment,

d. a description of the material, services, labor, or equipment,

e. the name and last-known address of the person who requested that the claimant provide the material, services, labor, or equipment,

f. the address, legal description, or location of the property to which the material, services, labor, or equipment has been supplied,

g. a statement that the dollar amount of the material, services, labor, or equipment furnished or to be furnished exceeds Two Thousand Five Hundred Dollars ($2,500.00), and

h. the signature of the claimant, or the claimant's representative.

5. A rebuttable presumption of compliance with paragraph 1 of this subsection shall be created if the pre-lien notice is sent as follows:

a. hand delivery supported by a delivery confirmation receipt,

b. automated transaction pursuant to Section 15-115 of Title 12A of the Oklahoma Statutes, or

c. certified mail, return receipt requested. Notice by certified mail, return receipt requested, shall be effective on the date mailed.

6. The claimant may request in writing, the request to be sent in the manner as provided in paragraph 5 of this subsection, that the original contractor provide to the claimant the name and last-known address of the owner of the property. Failure of the original contractor to provide the claimant with the information requested within five (5) days from the date of receipt of the request shall

render the pre-lien notice requirement to the owner of the property unenforceable.

C. At the time of the filing of the lien statement, the claimant shall furnish to the county clerk a notarized affidavit verifying compliance with the pre-lien notice requirements of this section. Any claimant who falsifies the affidavit shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

D. Failure of the claimant to comply with the pre-lien notice requirements of this section shall render that portion of the lien claim for which no notice was sent invalid and unenforceable.

Added by Laws 2001, c. 21, § 1, eff. July 1, 2001.

§42-143. Lien by or through subcontractor.

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor, for the amount due him for such material, equipment and labor; and any artisan or day laborer in the employ of, and any person furnishing material or equipment used on said land to, such subcontractor may obtain a lien upon such land, or improvements, or both, for the same time, in the same manner, and to the same extent as the subcontractor, for the amount due him for such material, equipment used on said land and labor, by filing with the county clerk of the county in which the land is situated, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the county clerk shall enter a record of the same against the tract index and in the journal provided for in the preceding section, and in the manner therein specified. Provided further, that the owner of any land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted

to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, and such owner may pay such subcontractor the amount due him from such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

R.L. 1910, § 3864; Laws 1957, p. 417, § 1; Laws 1977, c. 207, § 8, eff. Oct. 1, 1977; Laws 1978, c. 133, § 4, eff. Oct. 1, 1978; Laws 1980, c. 216, § 3, emerg. eff. May 30, 1980.

§42-143.1. Notice - Filing of lien statement - Fees.

A. Within one (1) business day after the date of the filing of the lien statement provided for in Sections 142 and 143 of this title, a notice of the lien shall be mailed by certified mail, return receipt requested, to the owner of the property on which the lien attaches. The claimant shall furnish to the county clerk the last-known mailing address of the person or persons against whom the claim is made and the owner of the property. The notice shall be mailed by the county clerk. The fee for preparing and mailing the notice of mechanics' and materialmen's lien and costs for each additional page or exhibit shall be as provided for in Section 32 of Title 28 of the Oklahoma Statutes and shall be paid by the person filing the lien. The fee shall be deposited into the County Clerk's Lien Fee Account, created pursuant to the provisions of Section 265 of Title 19 of the Oklahoma Statutes.

B. The notice shall contain the date of filing; the name and address of the following: The person claiming the lien; the person against whom the claim is made and the owner of the property; a legal description of the property; and the amount claimed. Provided that, if with due diligence the person against whom the claim is made or the owner of the property cannot be found, the claimant after filing an affidavit setting forth such facts may, within sixty (60) days of the filing of the lien statement, serve a copy of the notice upon the occupant of the property or the occupant of the improvements, as the case may be, in a like manner as is provided for service upon the owner thereof, or, if the same be unoccupied, the claimant may post a copy in a conspicuous place upon the property or any improvements thereon.

Added by Laws 1977, c. 207, § 9, eff. Oct. 1, 1977. Amended by Laws 1979, c. 251, § 1, emerg. eff. June 5, 1979; Laws 1983, c. 51, § 1, emerg. eff. April 26, 1983; Laws 1984, c. 268, § 5, eff. Nov. 1, 1984; Laws 1985, c. 166, § 4, operative July 1, 1985; Laws 1989, c. 366, § 2, eff. Nov. 1, 1989; Laws 2000, c. 363, § 23, emerg. eff. June 6, 2000; Laws 2001, c. 21, § 2, emerg. eff. April 3, 2001.

§42-143.2. Repealed by Laws 2005, c. 31, § 1, eff. Nov. 1, 2005.

§42-143.3. Leased or rented equipment - Exemption from act.

The provisions of this act as relating to leased or rented equipment shall not apply to real property qualified for homestead exemption or real property used for agricultural purposes or real property used for the production of or growing of agricultural products.
Laws 1980, c. 216, § 5, emerg. eff. May 30, 1980; Laws 1984, c. 9, § 1, emerg. eff. March 12, 1984.

§42-143.4. Leased or rented equipment - Property used for production of oil or gas.

The provisions of this act relating to leased or rented equipment shall not apply to such equipment used for the development or production of oil or gas, except insofar as is specifically allowed by Section 144 of Title 42.
Laws 1980, c. 216, § 6, emerg. eff. May 30, 1980.

§42-144. Oil and gas well liens.

Any person, corporation, or copartnership who shall, under contract, expressed or implied, with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipeline or oil pipeline, or with the trustee or agent of such owner, perform labor or services, including written contracts for the services of a geologist or petroleum engineer, or furnish material, machinery, and oil well supplies used in the digging, drilling, torpedoing, completing, operating, or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing, or repairing of any gas well, or perform any labor upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, shall have a lien upon the whole of such leasehold or oil pipeline, or

gas pipeline, or lease for oil and gas purposes, the buildings and appurtenances, the proceeds from the sale of oil or gas produced therefrom inuring to the working interest, exempting, however, any valid, bona fide reservations of oil or gas payments or overriding royalty interests executed in good faith and payable out of such working interest, and upon the material and supplies so furnished, and upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, and upon the oil or gas well for which they were furnished, and upon all the other oil or gas well fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor or services performed. Such lien shall be preferred to all other liens or encumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipeline, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this article shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or services.
R.L. 1910, § 3865; Laws 1919, c. 258, p. 367, § 2; Laws 1927, c. 42, p. 64, § 1; Laws 1963, c. 226, § 1.

§42-144.1. Effectiveness of lien against purchaser - Delivery of copy of statement of lien.

No lien claimed by virtue of this act, insofar as it may extend to the proceeds from the sale of oil or gas produced from such lease, shall be effective against any purchaser of such oil or gas until a copy of the statement of lien claim required to be filed by the provisions of this chapter has been delivered to such purchaser by registered or certified mail.
Laws 1963, c. 226, § 2.

§42-144.2. Trust funds for payment of lienable claims.

A. Except as provided by subsection D of this section, the amount payable under any oil and gas well drilling contract, reworking contract, operating agreement, or monies payable as a condition of participation in the drilling of an oil and gas well under the terms of a pooling order issued by the Oklahoma Corporation Commission shall, upon receipt by any oil and gas well operator, contractor or subcontractor, be held by such operator as trust funds for the payment of all lienable claims due and owing by such operator, contractor or subcontractor by reason of such drilling contract, reworking contract, operating agreement, or force pooling order.

B. The trust funds created under subsection A of this section shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

C. The existence of such trust funds shall not prohibit the filing or enforcement of any labor, mechanic or materialmen's lien against the affected real property by any lien claimant, nor shall the filing of such a lien release the holder of such funds from the obligations created under this section.

D. The provisions of this section shall not be applicable or affect payments owed to royalty owners by the operator of an oil or gas well and shall not affect or alter the terms or provisions of Section 87.1 of Title 52 of the Oklahoma Statutes.

Added by Laws 1986, c. 176, § 11, emerg. eff. May 15, 1986. Amended by Laws 1997, c. 133, § 459, eff. July 1, 1999; Laws 2002, c. 460, § 30, eff. Nov. 1, 2002.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 459 from July 1, 1998, to July 1, 1999.

§42-145. Oil and gas well lien by or through subcontractor.

Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontract with a contractor, or who, as an artisan or day laborer in the employ of such contractor, shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipeline or any oil pipeline from the same tank and in the same manner and to the same extent as the original contractor for the

amount due him for such labor, as provided in the preceding section.
R.L. 1910, § 3866.

§42-146. Enforcement of lien on oil and gas wells.
The liens created by Sections 144 and 145 of this title shall be enforced pursuant to the provisions of Sections 171 through 178 of this title. Notice of the lien shall be given and the materialman's statement or the lien of any laborer shall be filed, in the same manner as is provided for in Sections 141 through 143.4 of this title, except that Section 142.6 of this title shall not apply to liens created pursuant to Sections 144 and 145 of this title and the statement required to be filed in the office of the county clerk pursuant to Section 143 of this title as to liens created pursuant to Sections 144 and 145 of this title shall be filed within one hundred eighty (180) days after the date upon which material, machinery or supplies were last furnished or labor or services last performed under the relevant contract or subcontract, whichever the case may be. A lien created pursuant to Sections 144 and 145 of this title shall affect only the oil and gas leasehold estate and shall not constitute a lien against or otherwise affect any other interest in the real property involved, except if the owner of an oil, gas or other mineral interest therein shall also own a working interest in a well located thereon, such lien shall attach to said working interest.
R.L.1910, § 3867. Amended by Laws 1983, c. 57, § 1, eff. Nov. 1, 1983; Laws 1985, c. 136, § 2, eff. Nov. 1, 1985; Laws 1990, c. 99, § 1, eff. Sept. 1, 1990; Laws 2002, c. 460, § 31, eff. Nov. 1, 2002.

§42-147. Repealed by Laws 1982, c. 332, § 3.
§42-147.1. Discharge of lien.
Any property owner or other interested party, including but not limited to mortgagees, contractors, subcontractors and others against whom a lien claim is filed under the provisions of the law relating to mechanics' and materialmen's liens, may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed either: An amount of money equal to one hundred twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount. Within three (3) business days after the deposit of money or bond is made, the county clerk shall

serve upon the lien claimant, at the address shown on the lien claim, written notice setting forth: The number of the lien claim; the name of the lien claimant; the name of the property owner; the name of the alleged debtor, if someone other than the property owner; the property description shown on the lien claim; and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the bond penalty. The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk and pay a fee in accordance with Section 32 of Title 28 of the Oklahoma Statutes. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and either a copy of the cash receipt issued by the county clerk or a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If cash is deposited, the county clerk shall immediately show the lien released of record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice is mailed within which to file a written objection with the county clerk. If a written objection is not timely filed the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within ten (10) days thereafter and notify by ordinary mail both the lien claimant and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the penal amount is less than one hundred twenty-five percent (125%) of the claim; the power of attorney of the surety's attorney-in-fact does not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of the county clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the lien claimant as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs and attorney fees awarded the lien claimant, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The preceding clause shall not limit the common law liability of the party who created the indebtedness upon which the lien claim is based. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein, if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The cash deposit or bond, as the case may be, shall stand in lieu of the released lien, and the lien claimant must proceed against the substituted security in the same time and manner as is required for foreclosure of a lien claim. The cash deposit or bond shall stand liable for such principal, interest, court costs and attorney fees to the extent they could be awarded in a lien foreclosure proceeding.

The only proper parties to an action against the substituted security are: The party making the cash deposit; the bond principal and surety; the party primarily liable for the indebtedness giving rise to the lien claim; and anyone else who may be liable to the lien claimant for the same indebtedness. The party making the cash deposit and the bond principal and surety are necessary parties to an action against the substituted security, and by making a deposit or filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

If the lien claimant fails to timely file a foreclosure action, upon application of the party making the deposit or filing the bond and the payment of a fee of Ten Dollars ($10.00), the county clerk shall return the cash to the party making the deposit or appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for an inadvertent release of cash or bond. At the end of ten (10) years and after

the county clerk has attempted written notification to the lien claimant at the address shown on the lien claim, if no foreclosure has been commenced by the lien claimant or such money has not been withdrawn upon application of the depositing party, the cash deposit plus all accrued interest shall be forfeited to the county general fund.

Nothing contained in this section shall preclude the lien claimant and other interested parties from entering into agreements for the substitution of a different form of security in lieu of the lien claim.

The county clerk shall invest the deposited cash in the manner provided for county treasurers in Section 348.1 of Title 62 of the Oklahoma Statutes. Any interest earned thereon shall become a part of the deposit and be either returned to the party making the deposit, if no action is filed, or paid in accordance with any final judgment rendered by the court in the action against the substituted security. If a district court judgment adverse to the depositing party is entered, in setting the amount of supersedeas bond the court shall take into consideration the existing cash deposit or bond.

Added by Laws 1982, c. 332, § 1, eff. Oct. 1, 1982.
Amended by Laws 2003, c. 184, § 4, eff. Nov. 1, 2003; Laws 2007, c. 100, § 6, eff. Nov. 1, 2007.

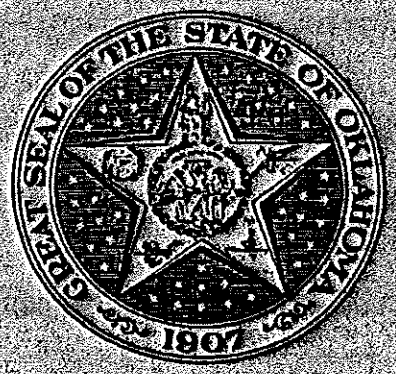
NOTE: Laws 2007, c. 132, § 7 repealed by Laws 2008, c. 3, § 23, emerg. eff. Feb. 28, 2008.

C 6500.4 H236 2009 c.3

State of Oklahoma Workers' Compensation Court

HANDBOOK

Title 85, Oklahoma Statutes
Court Rules
Rules of the Administrator
Disability Charts
Court Forms



September 2009

DISCLAIMER: This document is a reference tool only and should not be construed as offering or providing legal advice. While the Oklahoma Workers' Compensation Court has made a good faith effort to provide accurate and useful information, it makes no representation and accepts no liability for any reliance on the completeness or accuracy of this information. This document is based on statutes enacted and rules and forms promulgated before September 1, 2009. Readers are encouraged to refer to the appropriate official publication and to stay current with periodic legislative and rule changes.

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General Information

History

The Oklahoma Legislature enacted the state's first law governing workers' compensation more than nine decades ago in 1915. The law provides a substitute remedy to an employee for accidental injuries received during covered employment without the burden of proving negligence. The law is intended to provide injured workers with compensation for disability and health and rehabilitation benefits as a result of a work-related injury, regardless of who was at fault. In exchange for liability without fault, employers are provided with exclusive remedy protection. Exclusive remedy protects employers from liability to injured workers under laws other than the Workers' Compensation Act, Title 85, Oklahoma Statutes. The law applies to almost all types of employment and to both accidental injury and occupational illness.

Until 1959, the responsibility for administering the workers' compensation law resided with the State Industrial Commission. In 1959, the Oklahoma Legislature created and transferred jurisdiction over workers' compensation to the State Industrial Court. In 1978, the five-judge State Industrial Court was replaced by a seven-judge Workers' Compensation Court. The composition of the Court was expanded to eight judges in 1981, to nine in 1985 and to ten in 1994. Like its 1959 predecessor, the Court is a court of record responsible for determining claims for compensation, the liability of employers and insurers, and any rights asserted under the workers' compensation laws.

Mission

The mission of the Workers' Compensation Court is to provide fair and timely procedures for the informal and formal resolution of disputes and identification of issues involving work-related injuries. To this end the Court dedicates itself to carry out this responsibility and to serve the public promptly, courteously and impartially.

Organization

The Court is composed of ten judges who are appointed by the Governor from a list of nominees submitted by a constitutionally created Judicial Nominating Commission. The list includes the names of three persons, in addition to that of the incumbent judge, if any. Judges serve staggered six-year terms and may be reappointed for successive six-year terms. Every two years one of the judges is selected by the Governor as the presiding judge. The presiding judge is charged with overall responsibility for the functioning of the Court. All judges rotate between the Oklahoma City and Tulsa Court locations for dockets and may hear cases in other locations as provided by law. Awards of the Court are final and conclusive unless appealed to a panel of three Workers' Compensation Court judges unrelated to the case, or directly to the Supreme Court. An order of the three-judge panel may be appealed to the Supreme Court.

The chief administrative officer for the Court is an Administrator who, until 2005, was appointed by the presiding judge from a list submitted by a five-member selection committee. Thereafter, a vacancy in the position is filled by appointment of the Governor for a six-year term. The Administrator supervises all offices and departments of the Court and staff, including administrative and support personnel. Specific functions of Court staff, offices and departments of the Court are identified below.

The ***Counselor Department*** is the Court's primary public information unit. It supports a toll-free information line, prepares court publications, develops educational workshops, helps maintain the Court's web site, and processes applications to serve as a mediator for the Court's mediation system.

The ***Office of the Court Clerk*** receives court filings, certifies documents, prepares and transmits records on appeal, accepts appeal bonds, serves as the Court's records custodian, and manages the Court's records retention schedule.

The ***Data Processing/Management Information Services Department*** develops and maintains the Court's client/server system, develops computer programs and applications, coordinates information technology activities with vendors and other state agencies, and assists other court departments in meeting their goals through the use of technology.

The ***Docket Office*** dockets cases, schedules hearings and motions, notifies parties of hearing dates, and manages specialized dockets designed to resolve certain disputes without the need for trial.

The ***Form 3 Processing Department*** processes claims for compensation and orders entered into by mutual agreement of the parties. Work includes creating court files, data entry, and mailing information to the parties.

The ***Insurance Department*** maintains a workers' compensation proof of insurance database for the state, and with the Administrator's supervision, regulates employers which self-insure either as an individual self-insurer or as part of an approved group association. This department also regulates third party administrators. Self-insurance activities include reviewing applications for self-insurance and monitoring the financial status and claims records of self-insured employers.

The ***Order Processing Department*** prepares orders at the direction of the judges and processes them for mailing to the parties.

The ***Records Department*** maintains court files, processes the mail, and responds to requests for records and information.

In addition to departmental employees, the Court employs staff attorneys, court reporters, administrative personnel and support staff. Staff attorneys assist the judges, monitor legislation for potential impact on the workers' compensation system, provide support services to various workers' compensation advisory bodies, and handle claims of employees of bankrupt self-insured employers. Court reporters record and transcribe proceedings as necessary. Administrative staff are responsible

for the business, financial and personnel functions of the Court. Support staff include receptionists and judicial secretaries who provide clerical assistance to the judges and other court employees. Court employees also perform duties associated with medical matters over which the Court has responsibility. Duties include administering the independent medical examiner and case manager programs, producing orders appointing providers as directed by the Court, revising and maintaining the schedule of medical and hospital fees as directed by the Court Administrator, and responding to inquiries related to medical issues.

COURTROOM CONDUCT

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Courtroom Conduct

Adopted by unanimous vote of the Judges of the Workers' Compensation Court on July 1, 1995.
Revised and Adopted by Unanimous Vote of the Court's Judges on August 15, 2008.

The following suggestions are made to counsel for proper courtroom decorum:

1. Punctuality and brevity are appreciated virtues.
2. Remove hats before entering the courtroom.
3. Stand when addressing or responding to the judge.
4. Make certain that the court file is available for the judge, as needed.
5. Do not approach the bench or a witness without permission.
6. Assist the court in maintaining order and decorum.
7. Examine witnesses so that the judge, reporter and all concerned may hear. Preserve a dignified appearance at all times.
8. Avoid informal references to opposing counsel, parties and witnesses.
9. Address arguments to the judge and not opposing counsel.
10. Treat all witnesses and court personnel in a friendly but impersonal manner.
11. Dignity and solemnity should be maintained at all times, during court proceedings.
12. Appropriate clothing will materially contribute to the dignity of the forum. Attorneys, parties and witnesses should be dressed appropriately. Shorts and other casual attire are prohibited.
13. The use of tobacco, beverages, food, candy or gum by counsel, parties and witnesses at anytime, in the courtroom is prohibited.
14. No person shall carry a firearm or other weapon onto the court premises without prior approval of the judge.

As a member of the Bar, your personal appearance and conduct in the courtroom is visible evidence of your respect for the rule of law and the administration of justice.

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OKLAHOMA STATUTES
TITLE 85, WORKERS' COMPENSATION

Current through the First Regular Session of the 52nd Oklahoma Legislature (2009)

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Oklahoma Statutes
Title 85, Workers' Compensation

Current through the First Regular Session of the 52nd Oklahoma Legislature (2009)

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Oklahoma Statutes
Title 85, Workers' Compensation

Current through the First Regular Session of the 52nd Oklahoma Legislature (2009)
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SECTION 1

TITLE OF ACT

This act shall be known as the "Workers' Compensation Act".

SECTION 1.1

INAPPLICABILITY TO CERTAIN OCCUPATIONAL DISEASES - BURDEN OF PROOF - CONSTRUCTION

A. The Workers' Compensation Act shall not apply to cases of occupational disease in which the last injurious exposure to the hazards of such disease occurred before June 6, 1953.

B. The burden of proof, by a preponderance of the evidence, shall be on the party requesting benefits or relief pursuant to the provisions of the Workers' Compensation Act unless otherwise specifically provided for by law.

C. The provisions of the Workers' Compensation Act shall be strictly construed by the Workers' Compensation Court and any appellate court reviewing a decision of the Workers' Compensation Court.

SECTION 1.2

WORKERS' COMPENSATION COURT - CREATION - MEMBERSHIP - TERMS - QUALIFICATIONS - SALARIES - PRESIDING JUDGE - RULES - COURT OF RECORD - PRINCIPAL OFFICE - HEARINGS - ADMINISTRATOR - CONTEMPT POWERS

A. There is hereby created the Workers' Compensation Court which shall consist of ten (10) judges. Each judge of the Court shall be appointed to a designated numbered position on the Court. The positions shall be numbered one through ten. The initial terms of the judges by position number shall expire on the following dates:

Position 1 shall expire 7-1-84.

Position 2 shall expire 7-1-84.

Position 3 shall expire 7-1-84.

Position 4 shall expire 7-1-82.

Position 5 shall expire 7-1-82.

Position 6 shall expire 7-1-80.

Position 7 shall expire 7-1-80.

Position 8 shall expire 7-1-88.

Position 9 shall expire 7-1-88.

Position 10 shall expire 7-1-96 after being appointed under the provisions hereinafter set forth effective September 1, 1993.

Thereafter, each position shall be filled by a Judge appointed to serve a six year term.

Provided the judges serving unexpired terms on the State Industrial Court shall serve on the Workers' Compensation Court until their terms expire only as provided herein. The judges of the State Industrial Court whose terms expire March 14, 1979, shall serve in Positions 6 and 7 until that date, and the Judge whose term expires March 14, 1981, shall serve in Position 5 until that date. Upon expiration of these terms the Governor shall appoint judges to serve the remainder of the initial terms designated in this section. When a vacancy on the Court occurs or is certain to occur or for initial appointments to the Court, the Judicial Nominating Commission shall choose and submit to the Governor and the Chief Justice of the Supreme Court the names of three persons, in addition to the name of the incumbent judge, if any, for each appointment, each of whom has previously notified the Commission in writing that he or she will serve as a judge if appointed. The Governor shall appoint one of the nominees to fill the vacancy, but if the Governor fails to do so within sixty (60) days, the Chief Justice of the Supreme Court shall appoint one of the nominees, the appointment to be certified to the Secretary of State.

B. A judge of the Court shall have been licensed to practice law in this state for a period of not less than five (5) years prior to appointment. Each judge, before entering upon the duties of office, shall take and subscribe to an oath of office and file the same with the Secretary of State. Each judge shall continue to serve until his or her successor has been appointed and qualified. A judge shall be eligible for reappointment, provided that the judge may be removed for cause by the Court on the Judiciary prior to the expiration of his or her term.

C. Each judge shall receive a salary equal to that paid to a district judge of this state, and shall devote full time to his or her duties and shall not engage in the private practice of law during the term in office.

D. The Governor shall appoint from among the judges of the Workers' Compensation Court a presiding judge of that Court who shall serve for a two-year term commencing with the initial appointment beginning January 1, 1987. Any judge so appointed shall not serve more than two times in succession. The presiding judge shall preside at all hearings held by the Court, preside at such meetings of the judges of the Court as may be necessary and perform such other supervisory duties as the needs of the Court may require. The presiding judge may designate one of the other judges to act as presiding judge in his or her place whenever necessary during the disqualification, disability or absence of the presiding judge. During the disqualification, disability or absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

E. The Court shall have the authority to adopt reasonable rules within its respective areas of responsibility including the rules of procedure for the Court en banc, after notice and public hearing, for effecting the purposes of the Workers' Compensation Act. All of the judges of the Court shall be present at all meetings wherein rules are adopted or amended. All rules upon adoption, shall be submitted to the Supreme Court, which shall either approve or disapprove them within thirty (30) days. All rules upon approval by the Supreme Court, shall be published and be made available to the public and, if not inconsistent with the law, shall be binding in the administration of the Workers' Compensation Act.

F. The Court is hereby designated and confirmed as a court of record, with respect to any matter within the limits of its jurisdiction, and within such limits the judges thereof shall possess the powers and prerogatives of the judges of the other courts of record of this state, including the power to punish for contempt those persons who disobey a subpoena, or refuse to be sworn or to answer as a witness, when lawfully ordered to do so.

G. The principal office of the Court shall be situated in the City of Oklahoma City in quarters assigned by the Department of Central Services. The Court may hold hearings in any city of this state.

H. All county commissioners and presiding district judges of this state shall make quarters available for the conducting of hearings by a judge of the Court upon request by the Court.

I. The judges of the Court shall determine the qualifications necessary for the job of Administrator. Said qualifications shall be submitted to the Chief Justice of the Supreme Court for approval, disapproval or modification.

J. Judges of the Workers' Compensation Court may punish for direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21 of the Oklahoma Statutes.

SECTION 1.2A

SALARIES

Notwithstanding other limits established by law, beginning January 1, 1998, the following judicial officers shall receive compensation for their services, payable monthly as follows: A judge of the Workers' Compensation Court shall receive a salary as prescribed by Section 1.2 of Title 85 of the Oklahoma Statutes.

SECTION 1.3

WORKERS' COMPENSATION COURT ADMINISTRATOR

A. The chief administrative officer of the Workers' Compensation Court shall be the Administrator, who shall be subject to the general supervision of the presiding judge of the Court, subject to the general administrative authority of the Chief Justice of the Supreme Court.

B. The person serving as Administrator on the date of passage and approval of this act shall continue to serve as Administrator of the Court, provided said person is serving as Administrator on the effective date of this act. C. Except as provided in subsection B of this section, the Administrator shall be appointed by the Governor.

D. The salary of the Administrator shall be ninety percent (90%) of the authorized salary of a judge of the Court.

E. The Administrator shall serve a six-year term. During the term, the Administrator may be removed from office only for cause, as provided by law for the removal of officers not subject to impeachment, pursuant to the provisions of Sections 1181 through 1197 of Title 22 of the Oklahoma Statutes.

F. An Administrator who otherwise qualifies to serve as a judge of the Court shall not be eligible to serve as a judge of the Court for a period of one (1) year from the last date served as Administrator of the Court.

G. In addition to other duties set forth in Title 85 of the Oklahoma Statutes, the Administrator, subject to approval of the presiding judge, shall organize, direct and develop the administrative work of the Court, including the docketing, clerical, technical and financial work, establish hours of operation, and perform such other duties relating to matters within the purview of the Court as any judge of the Court may request.

H. The Administrator shall employ other employees of the Court, within budgetary limitation, necessary to carry out the work and orders of the Court in an efficient and expedient manner.

SECTION 2b

COVERAGE FOR CERTAIN PUBLIC EMPLOYEES

A. 1. All public entities of this state, their agencies and instrumentalities, authorities, and public trusts of which they are beneficiaries shall provide workers' compensation to their employees and elected officials engaged in either governmental or proprietary functions in accordance with this section. Compensation or indemnification for compensation shall be paid out of the funds of the public entities.

2. Except as otherwise provided, the state and all its institutions of higher education, departments, instrumentalities, institutions, and public trusts of which it or they are beneficiaries shall insure against liability for workers' compensation with the State Insurance Fund and shall not insure with any other insurance carrier unless:

a. the State Insurance Fund refuses to accept the risk when the application for insurance is made,

b. specifically authorized by law, or

c. the state entity can obtain workers' compensation insurance coverage at the same cost or at a lower cost from another insurance carrier licensed in this state. Effective November 1, 1999, and for the next two fiscal years thereafter, not to exceed fifteen (15) state entities each fiscal year may obtain workers' compensation insurance coverage pursuant to this subparagraph from an insurer other than the State Insurance Fund. Beginning with the third fiscal year thereafter, all state entities may obtain workers' compensation insurance coverage pursuant to this subparagraph.

3. The state, all state institutions of higher education except comprehensive universities, and all state departments, instrumentalities, institutions, and public trusts of which the state is a beneficiary, may self-insure under rules promulgated by the State Insurance Fund. Self-insurance administration may only be obtained through the State Insurance Fund. The state, all state institutions of higher education except comprehensive universities, and all state departments, instrumentalities, institutions, and public trusts so electing to self-insure shall pay premiums set by the State Insurance Fund. The State Insurance Fund shall collect premiums, pay claims and provide for excess insurance. All dividends or profits accumulating from a self-insurance program shall be refunded to the participants on a formula devised by the State Insurance Fund.

B. All counties, cities and towns, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability

for workers' compensation with the State Insurance Fund or, through any combination of the following, may:

1. Self-insure and make any appropriation of funds to cover their risk;

2. Secure reinsurance or excess insurance over and above a self-insurance retention in any manner authorized by subsection B and C of Section 167 of Title 51 of the Oklahoma Statutes;

3. Secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act; Subsection C of Section 167 of Title 51 of the Oklahoma Statutes; or

4. Insure with other insurance carriers licensed in the State of Oklahoma.

C. Boards of education, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund or, through any combination of the following, may:

1. Self-insure and make any appropriation of funds to cover their risk;

2. Secure reinsurance or excess insurance over and above a self-insured retention in any manner authorized by subsection B of Section 168 of Title 51 of the Oklahoma Statutes; or

3. Insure with other insurance carriers licensed in the State of Oklahoma.

D. Comprehensive universities shall insure against their liability for workers' compensation with the State Insurance Fund; or if it can be demonstrated to the Board of Regents of the comprehensive university prior to the inception date of a workers' compensation policy that the policy will result in a lower cost than one with the State Insurance Fund or, through any combination of the following, may:

1. Self-insure and make any appropriation of funds to cover their risk; or

2. Insure with other insurance carriers licensed in the State of Oklahoma.

E. In addition to any other provision of this section, city, county, city-county, and public trust hospitals may insure with other insurance carriers licensed in this state if it can be demonstrated to the governing body of the hospital prior to the inception date of a workers' compensation policy each year that the policy will result in a lower cost than one with the State Insurance Fund.

F. For purposes of the Workers' Compensation Act, all contracts of employment for state, county, municipal, and state funded educational entities and public trusts will be considered to have been entered into in this state regardless of where the work is performed.

G. Where a person who is employed by the state, a municipality, a county, or by any political subdivisions thereof, and who, while off-duty from the employment, is employed by a private employer, the private employer alone shall be liable for compensation under the Workers' Compensation Act for any injury or death of the person arising out of and in the course of employment which occurs during the hours of actual employment by the private employer. The provisions of Section 11 of this title shall be applicable to private employers specified in this subsection. The provisions of this subsection shall not relieve the state, a municipality or a county, or any political subdivision thereof, from providing disability benefits to which a person may be entitled pursuant to a pension or retirement plan. The provisions of this subsection shall not preclude an employee or group of employees so employed from providing separate compensation coverage for off-duty employment by a private employer.

SECTION 2e
TEMPORARY TOTAL DISABILITY BENEFITS - STATE EMPLOYEES

The state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which they are beneficiaries shall first provide temporary total disability benefits to employees injured on the job under their policy of workers' compensation insurance. At the option of the employee, temporary total disability benefits shall then be supplemented by any sick or annual leave available to the injured employee to the extent that the injured employee shall receive full wages during the employee's temporary absence from work; provided, the provisions of this section shall not preclude an employee from receiving any

benefits to which the employee is entitled under the State Employees Disability Program Act, Section 1331 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 2.1
EMPLOYEES EXCLUDED

Commencing January 1, 1979, compensation provided for in the Workers' Compensation Act shall be payable to an employee for injuries arising out of and in the course of his employment. The Workers' Compensation Act shall not apply to the following employees:

1. Any person who is employed as a domestic servant or as a casual worker in and about a private home or household, which private home or household had a gross annual payroll in the preceding calendar year of less than Ten Thousand Dollars ($10,000.00) for such workers.

2. Any person for whom an employer is liable under any Act of Congress for providing compensation to employees for injuries, disease or death arising out of and in the course of employment including, but not limited to, the Federal Employees' Compensation Act, the Federal Employers' Liability Act, the Longshoremen's and Harbor Workers' Act and the Jones Act, to the extent his employees are subject to such acts.

3. Any person who is employed in agriculture or horticulture by an employer who had a gross annual payroll in the preceding calendar year of less than One Hundred Thousand Dollars ($100,000.00) cash wages for agricultural or horticultural workers.

4. Any person who is a licensed real estate sales associate or broker, paid on a commission basis.

SECTION 2.2
AGRICULTURAL EMPLOYEES NOT ENGAGED IN OPERATION OF MOTORIZED MACHINES - EXEMPTION

Notwithstanding any other provision of law, agricultural employees who are not engaged in operation of motorized machines shall be exempt from coverage of worker's compensation.

SECTION 2.3
PERSONS PROVIDING SERVICES IN MEDICAL CARE OR SOCIAL SERVICES PROGRAMS - EXEMPTION

The Workers' Compensation Act shall not apply to any person who is providing services in a medical care or social services program, or who is a participant in a work or training program, administered by the Department of Institutions, Social and Rehabilitative Services, unless the Department is required by federal law or regulations to provide workers' compensation for such person.

SECTION 2.4
PERSONS PROVIDING SERVICES IN MEDICAL CARE OR SOCIAL SERVICES PROGRAM - EXEMPTION

The Workers' Compensation Act shall not apply to any person who is providing services in a medical care or social services program, or who is a participant in a work or training program, administered by the Department of Human Services, unless the Department is required by federal law or regulations to provide workers' compensation for such person. This section shall not be construed to include nursing homes.

SECTION 2.5
PERSONS PROVIDING SERVICES IN MEDICAL CARE OR SOCIAL SERVICES PROGRAM - EXEMPTION

The Workers' Compensation Act shall not apply to any person who is providing services in a medical care or social services program, or who is a participant in a work or training program, administered by the Department of Human Services, unless the Department is required by federal law or regulations to provide workers' compensation for such person. This section shall not be construed to include nursing homes.

SECTION 2.6
CERTAIN EMPLOYERS OF FAMILY MEMBERS EXCLUDED

An employer, as defined in Section 3 of this title, with five or less total employees, all of whom are related by blood or marriage to:

1. The employer if the employer is a natural person;

2. A general or limited partner if the partnership is the employer;

3. The member of an association or limited liability company responsible for forming the association or limited liability company if the association or limited liability company is the employer; or

4. An incorporator of a corporation if the corporation is the employer,

shall be exempt from the Workers' Compensation Act.

SECTION 2.7

YOUTH SPORTS LEAGUE EMPLOYERS EXCLUDED

An employer which is a youth sports league which qualifies for exemption from federal income taxation pursuant to 26 U.S.C., Section 501(a) because it is an organization described in 26 U.S.C., Section 501(c)(3) or (4) shall be exempt from the Workers' Compensation Act.

SECTION 3

DEFINITIONS

As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act;

2. "Amount in dispute" means the dollar value of any permanent disability award granted to the employee by the Court for a disability claim which is greater than the dollar amount offered by the employer to the employee for such disability claim if the employer admits compensability within twenty (20) days of the filing of the Employee's First Notice of Accidental Injury and Claim for Compensation, has not disputed medical treatment, and has made a written settlement offer within fifteen (15) days of the employee reaching maximum medical improvement;

3. "Case management" means the ongoing coordination, by a case manager, of health care services provided to an injured or disabled worker, including, but not limited to:

a. systematically monitoring the treatment rendered and the medical progress of the injured or disabled worker,

b. ensuring that any treatment plan follows all appropriate treatment protocols, utilization controls and practice parameters,

c. assessing whether alternative health care services are appropriate and delivered in a cost-effective manner based upon acceptable medical standards, and

d. ensuring that the injured or disabled worker is following the prescribed health care plan;

4. "Case manager" means a person who:

a. is a registered nurse with a current, active unencumbered license from the Oklahoma Board of Nursing, or

b. possesses one or more of the following certifications which indicate the individual has a minimum number of years of case management experience, has passed a national competency test and regularly obtains continuing education hours to maintain certification:

(1) Certified Disability Management Specialist (CDMS),

(2) Certified Case Manager (CCM),

(3) Certified Rehabilitation Registered Nurse (CRRN),

(4) Case Manager – Certified (CMC),

(5) Certified Occupational Health Nurse (COHN), or

(6) Certified Occupational Health Nurse Specialist (COHN-S);

5. "Claimant" means a person who claims benefits for an injury pursuant to the provisions of the Workers' Compensation Act;

6. "Court" means the Workers' Compensation Court;

7. "Cumulative trauma" means a compensable injury, the major cause of which results from employment activities which are repetitive in nature and engaged in over a period of time and which is supported by objective medical evidence as defined in this section;

8. "Employer", except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined;

9. "Employee" means any person engaged in the employment of any person, firm, limited liability company or corporation covered by the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership; member of a limited liability company who owns at least ten percent (10%) of the capital of the limited liability company or any stockholder-employee of a corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included, the sole proprietors, members of a partnership, members of a limited liability company or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a firefighter, peace officer or emergency management worker. Provided, "employee" shall not include any other person providing or performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitative therapy, transportation, lodging or reimbursement for incidental expenses. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided, however, an owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator elects to participate as a sole proprietor. "Employee" shall not include a person

referred to as a drive-away owner-operator who privately owns and utilizes a tow vehicle in drive-away operations and operates independently for hire, if the drive-away owner-operator actually utilizes the tow vehicle and if the person contracting with the drive-away owner-operator is not the lessor of the tow vehicle. Provided, however, a drive-away owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the drive-away owner-operator elects to participate as a sole proprietor;

10. "Drive-away operations" include every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, or any combination thereof, with or without towing a privately owned vehicle;

11. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer or any authorized voluntary or uncompensated worker rendering services as a firefighter, peace officer or emergency management worker;

12. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act;

13. a. "Compensable injury" means any injury or occupational illness, causing internal or external harm to the body, which arises out of and in the course of employment if such employment was the major cause of the specific injury or illness. An injury, other than cumulative trauma, is compensable only if it is caused by a specific incident and is identifiable by time, place and occurrence unless it is otherwise defined as compensable in this title. A compensable injury must be established by objective medical evidence, as defined in this section.

b. "Compensable injury" includes heart-related or vascular injury, illness or death only if an accident or the claimant's employment is the major cause of the heart-related or vascular injury. Such injury shall be compensable only if it is demonstrated that the exertion necessary to produce the harm was extraordinary and unusual in comparison to other occupations and that the occupation was the major cause of the harm. The injury must be established by objective medical evidence, as defined in this section.

c. "Injury" or "personal injury" shall not include mental injury that is unaccompanied by physical injury, except in the case of rape which arises out of and in the course of employment.

d. "Compensable injury" shall not include the ordinary, gradual deterioration or progressive degeneration caused by the aging process, unless the employment is a major cause of the deterioration or degeneration and is supported by objective medical evidence, as defined in this section; nor shall it include injury incurred while engaging in, performing or as the result of engaging in or performing any recreational or social activities;

14. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer;

15. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title;

16. "Major cause" means the predominate cause of the resulting injury or illness;

17. "Objective medical evidence" means evidence which meets the criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court case law applicable thereto;

18. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the

particular trade, occupation, process or employment in which the employee is exposed to such disease. An occupational disease arises out of the employment only if the employment was the major cause of the resulting occupational disease and such is supported by objective medical evidence, as defined in this section;

19. "Permanent impairment" means any anatomical abnormality after maximum medical improvement has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to Section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. Except as otherwise provided in Section 11 of this title, all evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Governor and the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides or any alternative thereto except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto, adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. These officially adopted guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides or alternative to said guides. All evaluations of permanent impairment must be supported by objective medical evidence;

20. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee may become physically suited and reasonably fitted by

education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability;

21. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment;

22. "Maximum medical improvement" means that no further material improvement would reasonably be expected from medical treatment or the passage of time;

23. "Independent medical examiner" means a licensed physician authorized to serve as a medical examiner pursuant to Section 17 of this title;

24. "Certified workplace medical plan" means an organization of health care providers or any other entity, certified by the State Commissioner of Health pursuant to Section 14.3 of this title, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by CompSource Oklahoma, to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or pre-paid plans; and

25. "Treating physician" means the licensed physician selected as provided in Section 14 of this title.

SECTION 3.1

DEFINITIONS APPLICABLE TO DEATH BENEFITS

A. In respect to death benefits under the Workers' Compensation Act, the following definitions shall apply:

(1) "Actually dependent" means:

a. surviving spouse as defined in this section;

b. a child as defined in this section; or

c. any other person dependent in fact upon the employee and refers only to a person who receives one-half (½) or more of his support from the employee;

(2) "Surviving spouse" means only the employee's spouse living with or actually dependent upon the employee at the time of his injury or death, or living apart for justifiable cause or by reason of desertion by the employee;

(3) "Child" means a natural or adopted son or daughter of the employee under eighteen (18) years of age; or a natural or adopted son or daughter of an employee eighteen (18) years of age or over and physically or mentally incapable of self-support; or any natural or adopted son or daughter of an employee eighteen (18) years of age or over who is actually dependent; or any natural or adopted son or daughter of an employee between eighteen (18) and twenty-three (23) years of age who is enrolled as a full time student in any accredited educational institution. The term "child" includes a posthumous child, a child legally adopted or one for whom adoption proceedings are pending at the time of death, an actually dependent stepchild or an actually dependent acknowledged child born out of wedlock;

(4) "Grandchild" means a child of a child as herein defined;

(5) "Brother" and "sister" means a sibling of the employee under eighteen (18) years of age, eighteen(18) years of age or over and physically or mentally incapable of self-support, eighteen (18) years of age or over and actually dependent and brothers and sisters by adoption. Married brothers or married sisters shall not be included except as provided in paragraph (1) of this section; and

(6) "Parent" means a mother or father, a stepparent, a parent by adoption and a parent-in-law, if actually dependent in each case except as provided in paragraph (1) of this section.

B. All questions of relationship and dependency shall be determined as of the time of injury for purposes of income benefits for injury,

and as of the time of death for purposes of income benefits for death.

SECTION 3.4

COMMENCEMENT OF CLAIMS - PROCEDURE

A. 1. All claims for any compensation or benefits under the Workers' Compensation Act shall be commenced with the filing of a notice of injury with the Administrator. All claims filed for workers' compensation benefits shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the claimant and the claimant's agent, if any. Any person who signs this statement or causes another to sign this statement knowing the statement to be false shall be guilty of perjury. An individual who signs on behalf of a claimant may be presumed to have the authorization of the claimant and to be acting at the claimant's direction. All answers and defenses to claims or other documents filed on behalf of a respondent or the respondent's insurer in a workers' compensation case shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the respondent, the insurer, or their respective agents, if any. Any person who signs such a statement or causes another to sign such a statement, knowing the statement to be false, shall be guilty of perjury. An individual who signs on behalf of a respondent, its insurer, or its agent may be presumed to have the authorization of the respondent, its insurer and agent to be acting at their direction.

2. All matters pertaining to such claims shall be presented to the Administrator until such time as the Administrator is notified in writing by a party that there is a controverted issue that cannot be resolved by the parties or that the parties have received an agreed final order from the Court. The Administrator shall, within seven (7) days of the receipt of such notification, set the matter for hearing at the earliest available time to be heard by the Court in the appropriate judicial district as provided in Section 3.5 of this title. The Administrator shall assign a member of the Court to hear a docket in each judicial district of the state at least once each calendar month when there has been a request for a hearing in the judicial district. The Administrator shall assign judges to the state judicial districts on a rotating basis for the purpose of holding prehearing conferences and settlement conferences and hearing cases. At the request of either party, a prehearing conference shall be held before the member of the Court assigned to the case within forty-five (45) days of the filing of a claimant's request for a hearing. The purpose of the prehearing conference shall be to mediate and encourage settlement of the case or determine issues in dispute.

3. The Court, upon its own motion or at the request of any of the parties, may set a settlement conference at any practicable time. The conference shall be held before any Workers' Compensation Court Judge or an Active Retired Judge sitting by special designation for that purpose, other than the judge assigned to the case. The purpose of the settlement conference is to permit an informal discussion among the parties, the attorneys, and the settlement judge on every aspect of the case bearing on its settlement value in an effort to resolve the matter before trial. The settlement judge shall not have any communications regarding the case or the settlement conference with the assigned trial judge other than to advise the trial judge that a settlement was or was not reached. The setting of a settlement conference by the Court, or a request for a settlement conference by any party, shall not preclude any party from filing a Motion to Set for Trial.

4. The Court shall be vested with jurisdiction over all claims filed pursuant to the Workers' Compensation Act. The Court shall determine the lawfulness of any claim for compensation under the Workers' Compensation Act based on the weight of evidence; provided, however, any claim, and subsequent disability, that has as its source a physical condition resulting from incremental damage or injury or a gradual deterioration of physical health, which is caused by a condition arising out of and in the course of employment, must be proven by a preponderance of the evidence presented to the Court.

B. All claims so filed shall be heard by the judge sitting without a jury. All petitions for final orders or awards filed pursuant to the provisions of Section 84 of this title must be approved by the Court having jurisdiction before a final order or award may be entered. All matters relating to a claim for benefits under the Workers' Compensation Act shall be filed with the Administrator.

SECTION 3.5

VENUE - VIDEOCONFERENCE

A. Upon the agreement of the parties, the venue shall be the judicial district of the county of the legal residence of the claimant at the time the injury was sustained, the judicial district of the county where the injury occurred or the judicial district of the county of the principal place of business of the employer.

In the event that the claimant is not a legal resident of the State of Oklahoma, the necessary hearings shall be held in the judicial district of the county of the principal place of business of the employer. If the parties do not agree to venue as provided for in this section, hearings may be held in any jurisdiction if the Judge determines that good cause has been shown.

B. Upon agreement of the parties, the Court may hold hearings related to a claim by videoconference.

SECTION 3.6

APPELLATE PROCEDURES

A. All the evidence pertaining to each case, except upon agreed orders, shall, insofar as may be possible, be heard by the Judge initially assigned to the case. Upon the completion of such hearing or hearings, the Judge hearing the cause shall make such order, decision or award as is proper, just and equitable in the matter. Either party feeling himself aggrieved by such order, decision or award shall, within ten (10) days, have the right to take an appeal from the order, decision or award of the Judge to the Workers' Compensation Court sitting en banc. Such appeal shall be allowed as a matter of right to either party upon filing with the Administrator a notice of such appeal. Such Court en banc shall consist of three (3) Judges of the Court, none of whom shall have presided over any of the previous hearings on the claim. The Court en banc may reverse or modify the decision only if it determines that such decision was against the clear weight of the evidence or contrary to law. Upon completion of the appeal, the members of the Court sitting en banc shall issue such order, decision or award as is proper, just and equitable. Only those members participating in the hearing on appeal shall participate in the making of the order, decision or award. All orders, decisions or awards shall be approved by a majority of the members of the Court sitting en banc. Provided, there may be more than one Court en banc sitting at the same time for purposes of hearing the appeals provided for herein. Appeals shall be allowed on a question of law or a question of fact, or a mixed question of law and fact, and shall be determined on the record made before the Judge. Provided, when the order of the Judge of the Court making an award to a claimant is appealed by the employer or the insurance carrier, interest shall be allowed on the accrued amounts of the award due from the date the award was filed, if the award is not modified or vacated on appeal.

B. In each case filed in the Court en banc, and at the time of filing same, the appellant shall deposit with the clerk as costs One Hundred Twenty-five Dollars ($125.00) of which no rebate of any part thereof shall be made. The fee collected under this subsection shall be deposited as follows: One Hundred Dollars ($100.00) to the credit of the Administrator of Workers' Compensation Revolving Fund created by Section 95 of this title for the costs of administering the Workers' Compensation Act; and Twenty-five Dollars ($25.00) to the credit of the Administrator of Workers' Compensation Revolving Fund for purposes of implementing the provisions of this act *(O.S.L. 1994, 2nd Ex. Sess., c. 1)*, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

C. The order, decision or award of the Court shall be final and conclusive upon all questions within its jurisdiction between the parties, unless, within twenty (20) days after a copy of such order, decision or award has been sent by the Administrator to the parties affected, an action is commenced in the Supreme Court of the state, to review such order, decision or award. Any order, decision or award made by a Judge of the Court shall be considered as final under the provisions of this section unless appealed to the Workers' Compensation Court sitting en banc as provided for in subsection A of this section. The order, decision or award of a Judge of the Court shall be final and conclusive upon all questions within his jurisdiction between the parties unless appealed directly to the Supreme Court or to the Workers' Compensation Court sitting en banc as hereinbefore provided. Any party litigant desiring to appeal directly from such order, decision or

award to the Supreme Court, shall, within twenty (20) days after a copy of the order, decision or award has been sent by the Administrator to the parties affected, commence an action in the Supreme Court of the state to review such order, decision or award. The Supreme Court shall have original jurisdiction of such action, and shall prescribe rules for the commencement and trial of the same. Such action shall be commenced by filing with the Clerk of the Supreme Court a certified copy of the order, decision or award of the Workers' Compensation Court sitting en banc or the Judge attached to the petition by the complaint wherein the complainant or petitioner shall make his assignments or specifications as to wherein said order, decision or award is erroneous or illegal. Provided, however, no proceeding to reverse, vacate or modify any order, decision or award of the Workers' Compensation Court sitting en banc or Judge of the Court wherein compensation has been awarded an injured employee shall be entertained by the Supreme Court unless the Administrator shall take a written undertaking to the claimant executed on the part of the respondent or insurance carrier, or both, with one or more sureties to be approved by the Administrator, to the effect that the appellant will pay the amount of the award rendered therein, together with interest thereon from the date of the award by the Judge of the Court and all costs of the proceeding, or on the further order of the Workers' Compensation Court sitting en banc or Judge of the Court after the appeal has been decided by the Supreme Court, except that municipalities and other political subdivisions of the State of Oklahoma are exempt from making such written undertakings. Before the Clerk of the Supreme Court shall accept the action for filing, a certificate from the Administrator shall be required, showing that this provision has been complied with. Said proceedings shall be heard in a summary manner and shall have precedence over all other civil cases in the Supreme Court, except preferred Corporation Commission appeals. The Supreme Court shall require the appealing party to file within forty-five (45) days from the date of the filing of an appeal or an order appealed from, a transcript of the record of the proceedings before the Workers' Compensation Court, or upon application and for good cause shown, the Supreme Court may extend the time for filing said transcript of the record for a period of time not to exceed ninety (90) days from said date, and such action shall be subject to the law and practice applicable to other civil actions cognizable in said Supreme Court. The Court whose action was appealed shall enter any order directed by the Supreme Court under the final determination.

D. When the only controverted issue in a death claim is the determination of proper beneficiaries entitled to receive death benefits, and the parties-beneficiary appeal the decision of the Court, the employer or insurance carrier may pay the proceeds, as they accrue, to the Administrator. The Administrator shall hold the proceeds in trust in an interest-bearing account during the appeal period and shall distribute the proceeds and interest to the proper beneficiaries upon written direction of the Court. The employer or insurance carrier shall not be taxed interest or cost on the order of the death claim if payments have been made to the Administrator as they accrue.

E. An action to reopen any case under the provisions of the Workers' Compensation Act shall be assigned in the same manner as original assignments made hereunder.

F. Benefits for an injury shall be determined by the law in effect at the time of injury; benefits for death shall be determined by the law in effect at the time of death.

G. For purposes of this section, interest shall be computed pursuant to Section 727 of Title 12 of the Oklahoma Statutes.

SECTION 3.7

ADMINISTRATOR - POWERS AND DUTIES

The Administrator shall have the following powers and duties:

1. To hear and approve settlements pursuant to direction by the judges of the Court;

2. To review and approve "own-risk" applications and group self-insurance associations applications;

3. To monitor "own-risk", self-insurer and group self-insurance programs in accordance with the rules of the Court;

4. To establish a toll free telephone number in order to provide information and answer questions about the Court;

5. To hear and determine claims concerning disputed medical bills;

6. To promulgate necessary rules subject to the approval of the presiding judge;

7. Such other duties and responsibilities authorized by law or as the judges of the Court may prescribe;

8. To adopt rules which require every insurance company, the State Insurance Fund and every self-insurer authorized to transact workers' compensation insurance in this state to report to the Administrator its statistical experience and its experience regarding the utilization of independent medical examiners in permanent disability cases during the period from July 1, 1995, to July 1, 1997. The information regarding utilization of independent medical examiners shall include, but not be limited to, the number of independent medical examiner appointments, the parties requesting the independent medical examiner, the doctors participating and the number of evaluations done by each, a summary of awards and settlements, medical costs, and duration of temporary total disability. The Administrator shall compile the information collected and present a report of his findings to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the Advisory Council on Workers' Compensation and the Physician Advisory Committee; and

9. To adopt rules which impose an administrative penalty of One Hundred Dollars ($100.00) for each day an insurance company or self-insurer fails to provide the information required pursuant to paragraph 8 of this section.

SECTION 3.8

EMPLOYEES OF ADMINISTRATOR PROHIBITED FROM TESTIFYING IN CERTAIN COURT PROCEEDINGS - SOLICITATION, RECOMMENDATION OR REFERENCE OF ATTORNEY OR PHYSICIAN PROHIBITED - CERTAIN EX PARTE COMMUNICATIONS BY JUDGE PROHIBITED

A. No employee of the Administrator shall be competent to testify on any matter before a court concerning any information he has received through the performance of his duties under the provisions of the Workers' Compensation Act.

B. The Administrator and his employees shall not solicit employment for any attorney or physician nor shall they recommend or refer any claimant or employer to an attorney or physician. If the Administrator or any of his employees makes such a solicitation, recommendation or reference, that person, upon conviction, shall be guilty of a misdemeanor punishable, for each offense, by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment. The Administrator shall immediately terminate the employment of any such employee who is guilty of such solicitation, recommendation or reference. An Administrator guilty of such solicitation, recommendation or reference shall be subject to removal from office.

C. No judge of the Workers' Compensation Court shall engage in any ex parte communication with any party to an action pending before the Court or with any medical provider regarding the merits of a specific matter pending before the judge for resolution. Any violation of this provision shall subject the judge to disqualification from the action or matter upon presentation of an application for disqualification.

SECTION 3.9

WORKERS' COMPENSATION COUNSELORS - DUTIES

A. The Administrator shall establish a workers' compensation counselor program to assist injured workers, employers and persons claiming death benefits in obtaining benefits under the Workers' Compensation Act.

B. Workers' compensation counselors shall provide information to injured workers; investigate complaints; communicate with employers, insurance carriers, self-insurers, and health care providers; provide informational seminars and workshops on workers' compensation for medical providers, insurance adjustors, and employee and employer groups; and develop informational materials for employees, employers and medical providers. A workers' compensation counselor shall otherwise assist unrepresented claimants, employers, and other parties to enable them to protect their rights in the workers' compensation system.

C. The Administrator shall mail a notice to a claimant within thirty (30) days of the filing of an

Employee's First Notice of Accidental Injury and Claim for Compensation. The notice shall advise the claimant of the availability of the services of workers' compensation counselors and mediation to assist the claimant in resolution of the claimant's claim, how to contact the counselor program and all such additional information as the Administrator may determine necessary.

SECTION 3.10

VOLUNTARY MEDIATION - MEDIATION BY COURT ORDER - CERTIFIED MEDIATOR

A. Mediation shall be available to any party to a claim arising pursuant to the provisions of the Workers' Compensation Act, subject to the limitation provisions of Section 14.3 of this title and except for claims against the Multiple Injury Trust Fund.

B. Unless ordered by the Workers' Compensation Court, mediation shall be voluntary, and shall not be conducted without the consent of both parties.

1. Mediation is not a prerequisite to the commencement of a claim for benefits, pursuant to the provisions of the Workers' Compensation Act.

2. A request for mediation or consent to mediate does not invoke the jurisdiction of the Court.

C. The Court may order mediation upon request of either party or in any case in which the Court believes that mediation may be beneficial to a prompt and efficient resolution of the claim.

D. 1. A request for mediation shall be made in writing to the Administrator.

2. The party requesting mediation shall inform the Administrator of the issues in dispute, and the name, address, and telephone number of the opposing party or insurance company, if known. If the claim involves a certified workplace medical plan, the requesting party shall provide the name and phone number of the contact person for the plan.

E. Once a request has been made, the Administrator shall contact the opposing party. Upon order of the Court, the parties shall complete mediation within thirty (30) days of the notification.

F. If both parties agree to mediation, they shall enter into a written consent to mediate on a form provided by the Administrator. The form shall contain a statement informing the parties of their rights and obligations and of the confidentiality of the proceedings. This written consent shall be signed by both parties to the claim and shall be submitted to the Administrator before the selection of a mediator is made.

G. Mediation is confidential and no part of the proceeding shall be considered a matter of public record. Recommendations of the mediator are not binding unless the parties enter into a settlement agreement. If an agreement is not reached, the results and statements made during the mediation are not admissible in any following proceeding.

H. Upon receipt of the consent form or upon order of the Court, the Administrator shall provide the parties with a list of certified mediators. Both parties shall agree to a mediator. If the parties are unable to agree, the Administrator shall assign a certified mediator.

I. The Workers' Compensation Court shall be responsible for certifying those persons who are eligible and qualified to serve as mediators. An individual may be certified as a mediator if the applicant meets the qualifications as required by the Court.

J. Each certified mediator shall remain on the list for five (5) years, unless removed. Mediators shall be required to complete at least six (6) hours of continuing education per two-year period in the areas of mediation and workers' compensation. Proof of compliance with this requirement shall be submitted to the Administrator. This continuing education requirement shall be in addition to any other such general requirement which may be required by the Oklahoma State Bar Association. Cost of continuing education is to be borne by the applicant.

K. Mediators shall be compensated at the rate or fee as determined by the mediator; provided, however, the rate or fee shall not exceed a maximum rate to be established by the Administrator by rule. The cost of mediation shall be paid by the respondent or its insurance carrier.

L. If the mediated claim is resolved, any final settlement of the action shall include a consent to mediation form or court order to complete mediation, as applicable, and shall be completed upon the filing of a Joint Petition or an Agreement Between Employer and Employee as to Fact with Relation to an Injury and Payment of Compensation.

SECTION 3.11

COMPUTATION OF TIME

The time within which an act is to be done, as provided for in Title 85 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 85 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 4

INJURIES OCCURRING OUTSIDE STATE - RIGHT OF ELECTION - LANDS AND PROPERTY OF UNITED STATES

From and after the passage and effective date of the Workers' Compensation Act, all the provisions of the Workers' Compensation Act of this state, Sections 1 et seq. of this title, shall apply to employers and to employees, irrespective of where accident resulting in injury may occur, whether within or without the territorial limits of the State of Oklahoma, when the contract of employment was entered into within the State of Oklahoma, and the said employee was acting in the course of such employment and performing work outside the territorial limits of this state under direction of such employer. In such case the injured employee may elect to commence and maintain his action for benefits and compensation in the State of Oklahoma as provided in the Workers' Compensation Act and the Court is hereby vested with jurisdiction thereof as fully as if such injury or accident had occurred within this state. Such right of election shall, however, not preclude the injured employee from recovering any benefits or compensation provided under any law of the state where injury occurred, and if such action be so commenced in such other state, or under the law of another state, and is prosecuted to final determination, such employee shall thereupon be precluded from his right of action under the Workers' Compensation Act of this state. Provided, the injured employee may exercise his right of election to file his claim or commence his said action or proceeding in the State of Oklahoma, at any time prior to final adjudication or determination of his rights under the laws of another state, and the fact that he shall have been furnished or provided with medical, surgical, hospital or other treatment care, or paid temporary disability compensation in such other state, or under the laws thereof, shall not preclude such injured employee from recovering further benefits and compensation under the Workers' Compensation Act of this state. Provided, further, no award made by the Court of this state shall include any compensation paid by the employer or insurance carrier before commencement of the action or proceeding in this state and any payments so made shall be treated as compensation voluntarily paid and credit therefor shall be allowed.

The State of Oklahoma accepts the provisions of the Acts of Congress designated as Public Law No. 814, 49 Statutes 1938, and hereby extends the territorial jurisdiction of the Workers' Compensation Act of this state to all lands and premises owned or held by the Government of the United States of America, by deed or act of cession, by purchase or otherwise, which are within the exterior boundaries of this state, and to all purchases, buildings, constructions, improvements or property belonging to the Government of the United States of America, which are within the exterior boundaries of this state, in the same manner and to the same extent as if said premises were under the exclusive jurisdiction of the State of Oklahoma, subject only to the limitations placed thereon by the Act of Congress.

SECTION 5

DISCHARGE OF EMPLOYEE - TERMINATION OF HEALTH INSURANCE - PROHIBITED GROUNDS

A. No person, firm, partnership, corporation, or other entity may discharge, or, except for nonpayment of premium, terminate any group health insurance of any employee because the employee has in good faith:

1. Filed a claim;

2. Retained a lawyer for representation regarding a claim;

3. Instituted or caused to be instituted any proceeding under the provisions of this title;

4. Testified or is about to testify in any proceeding under the provisions of this title; or

5. Elected to participate or not to participate in a certified workplace medical plan as provided in Section 14 of this title.

B. No person, firm, partnership, corporation, or other entity may discharge any employee during a period of temporary total disability solely on the basis of absence from work.

C. After an employee's period of temporary total disability has ended, no person, firm, partnership, corporation, or other entity shall be required to rehire or retain any employee who is determined to be physically unable to perform assigned duties. The failure of an employer to rehire or retain any such employee shall in no manner be deemed a violation of this section.

D. No person, firm, partnership, corporation or other entity may discharge an employee for the purpose of avoiding payment of temporary total disability benefits to the injured employee.

SECTION 6

PENALTIES - DAMAGES

Except as provided in Section 29 of this act *[85 O.S., §110]*, a person, firm, partnership or corporation who violates any provision of Section 5 of this title shall be liable for reasonable damages, actual and punitive if applicable, suffered by an employee as a result of the violation. An employee discharged in violation of the Workers' Compensation Act shall be entitled to be reinstated to his former position. Exemplary or punitive damage awards made pursuant to this section shall not exceed One Hundred Thousand Dollars ($100,000.00). The burden of proof shall be upon the employee.

SECTION 6.1

LIABILITY OF STATE OR POLITICAL SUBDIVISION

The liability of the state or any political subdivision as defined in Section 152 of Title 51 of the Oklahoma Statutes, that is found in violation of Section 6 of Title 85 of the Oklahoma Statutes shall be limited to the limits of liability contained in the Governmental Tort Claims Act.

SECTION 7

JURISDICTION

Except as otherwise provided for by law, the district courts of the state shall have jurisdiction, for cause shown, to restrain violations of this act.

SECTION 9

COUNTY OFFICERS AND EMPLOYEES - COVERAGE

Workers' compensation insurance coverage on county officials and employees engaged in hazardous employment, except for county sheriffs and deputies, is permissive and not mandatory.

SECTION 11

EMPLOYER TO PAY COMPENSATION - EXCEPTIONS - LIABILITY FOR COMPENSATION

A. Every employer subject to the provisions of the Workers' Compensation Act shall pay, or provide as required by the Workers' Compensation Act, compensation according to the schedules of the Workers' Compensation Act for the disability or death of an employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of employment, without regard to fault as a cause of such injury, and in the event of disability only, except as follows:

1. An injury occasioned by the willful intention of the injured employee to bring about injury to himself or herself, or another;

2. An injury resulting directly from the willful failure of the injured employee to use a guard or protection against accident furnished for use pursuant to any statute or by order of the Commissioner of Labor;

3. An injury which occurs when an employee is using substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, or is using or abusing alcohol or illegal drugs, or is illegally using chemicals; provided, this paragraph shall only apply when the employee is unable to prove by a preponderance of the evidence that the substances, alcohol, illegal drugs, or illegally used chemicals were not the proximate cause of the injury or accident. For the purposes of this paragraph, post-accident alcohol or drug testing results shall be admissible as evidence; and

4. Except for innocent victims, an injury caused by a prank, horseplay, or similar willful or intentional behavior.

B. Liability of any person, firm, or corporation having an interest in the subject matter, employers and contracting employers, general or intermediate, for compensation under the Workers' Compensation Act, when other than the immediate employer of the injured employee, shall be as follows:

1. The independent contractor shall, at all times, be liable for compensation due to his or her direct employees, or the employees of any subcontractor of such independent contractor, and the principal employer shall also be liable in the manner hereinafter specified for compensation due all direct employees, employees of the independent contractors, subcontractors, or other employees engaged in the general employer's business; provided, however, if an independent contractor relies in good faith on proof of a valid workers' compensation insurance policy issued to a subcontractor of the independent contractor or on proof of an Affidavit of Exempt Status Under the Workers' Compensation Act properly executed by the subcontractor under Section 75 of this act *(36 O.S., §924.4)*, then the independent contractor shall not be liable for injuries of any employees of the subcontractor. Provided further, such independent contractor shall not be liable for injuries of any subcontractor of the independent contractor unless an employer-employee relationship is found to exist by the Workers' Compensation Court despite the execution of an Affidavit of Exempt Status Under the Workers' Compensation Act.

2. The person entitled to such compensation shall have the right to recover the same directly from the person's immediate employer, the independent contractor or intermediate contractor, and such claims may be presented against all such persons in one proceeding. If it appears in such proceeding that the principal employer has failed to require a compliance with the Workers' Compensation Act of this state, by the independent contractor, then such employee may proceed against such principal employer without regard to liability of any independent, intermediate or other contractor; provided, however, if a principal employer relies in good faith on proof of a valid workers' compensation insurance policy issued to an independent contractor of the employer or to a subcontractor of the independent contractor or on proof of an Affidavit of Exempt Status Under the Workers' Compensation Act properly executed by the independent contractor or subcontractor under Section 75 of this act *[36 O.S., §924.4]*, then the principal employer shall not be liable for injuries of any employees of the independent contractor or subcontractor. Provided further, such principal employer shall not be liable for injuries of any independent contractor of the employer or of any subcontractor of the independent contractor unless an employer-employee relationship is found to exist by the Workers' Compensation Court despite the execution of an Affidavit of Exempt Status Under the Workers' Compensation Act. Provided, however, in any proceeding where compensation is awarded against the principal employer under the provisions hereof, such award shall not preclude the principal employer from recovering the same, and all expense in connection with said proceeding from any independent contractor, intermediate contractor or subcontractor whose duty it was to provide security for the payment of such compensation, and such recovery may be had by supplemental proceedings in the cause before the Court or by an independent action in any court of competent jurisdiction to enforce liability of contracts.

3. Where work is performed on a single family residential dwelling or its premises occupied by the owner, or for a farmer whose cash payroll for wages, excluding supplies, materials and equipment, for the preceding calendar year did not

exceed One Hundred Thousand Dollars ($100,000.00), such owner or farmer shall not be liable for compensation under the Workers' Compensation Act. Such owner or farmer shall not be liable to the employee of any independent contractor or subcontractor, where applicable, or the farmer's own employee.

4. Where compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease and the insurance carrier, if any, on the risk when such employee was last so exposed under such employer, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, provided, however, that in the case of silicosis or asbestosis, the only employer and insurance carrier liable shall be the last employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (Si0 2) dust on each of at least sixty (60) days or more, and the insurance carrier, if any, on the risk when the employee was last so exposed under such employer.

5. Where compensation is payable for an injury resulting from cumulative trauma, the last employer in whose employment the employee was last injuriously exposed to the trauma during a period of at least ninety (90) days or more, and the insurance carrier, if any, on the risk when the employee was last so exposed under such employer, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier. If there is no employer in whose employment the employee was injuriously exposed to trauma for a period of at least ninety (90) days, then the last employer in whose employment the employee was last injuriously exposed to the trauma and the insurance carrier, if any, on the risk when such employee was last so exposed under such employer, shall be liable therefor, with right to contribution from any prior employer or insurance carrier.

SECTION 12

LIABILITY UNDER PRECEDING SECTION EXCLUSIVE - EXCEPTIONS - ACTIONS - DEFENSES EXCLUDED - EXTENT OF IMMUNITY

The liability prescribed in Section 11 of this title shall be exclusive and in place of all other liability of the employer and any of his employees, any architect, professional engineer, or land surveyor retained to perform professional services on a construction project, at common law or otherwise, for such injury, loss of services or death, to the employee, or the spouse, personal representative, parents, or dependents of the employee, or any other person. If an employer has failed to secure the payment of compensation for his injured employee, as provided for in this title, an injured employee, or his legal representatives if death results from the injury, may maintain an action in the courts for damages on account of such injury, and in such action the defendant may not plead or prove as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee; provided:

(I) The immunity created by the provisions of this section shall not extend to action by an employee, or the spouse, personal representative, parents, or dependents of the employee, or any other person against another employer, or its employees on the same job as the injured or deceased worker where such other employer does not stand in the position of an intermediate or principal employer to the immediate employer of the injured or deceased worker;

(ii) The immunity created by the provisions of this section shall not extend to action against another employer, or its employees, on the same job as the injured or deceased worker even though such other employer may be considered as standing in the position of a special master of a loaned servant where such special master neither is the immediate employer of the injured or deceased worker nor stands in the position of an intermediate or principal employer to the immediate employer of the injured or deceased worker; and

(iii) This provision shall not be construed to abrogate the loaned servant doctrine in any respect other than that described in paragraph (ii) of this section. This section shall not be construed to relieve the employer from any other penalty provided for in this title for failure to secure the payment of compensation provided for in this title.

(iv) For the purpose of extending the immunity of this section, any architect, professional engineer, or land surveyor shall be deemed an intermediate or principal employer for services

performed at or on the site of a construction project, but this immunity shall not extend to the negligent preparation of design plans and specifications.

(v) Nothing contained herein shall abrogate any rights arising under the Oklahoma Constitution.

SECTION 13

NO COMPENSATION FOR FIRST THREE CALENDAR DAYS

No compensation shall be allowed for the first three (3) calendar days of disability except the benefits as provided for in Section 14 of this title.

SECTION 14

MEDICAL ATTENTION - REFUSAL OF EMPLOYMENT WITH RESTRICTIONS

A. 1. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The treating physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the treating physician shall supply a full report of the treatment to the employer of the injured employee.

2. The treating physician who renders treatment to the employee at any time shall promptly notify the employee and employer or the employer's insurer in writing after the employee has reached maximum medical improvement and is released from active medical care. If the employee is capable of returning to modified light duty work, the treating physician shall promptly notify the employee and the employer or the employer's insurer thereof in writing and shall also specify what restrictions, if any, must be followed by the employer in order to return the employee to work. In the event the treating physician provides such notification to the employer's insurer, the insurer shall promptly notify the employer. If an injured employee, only partially disabled, refuses employment consistent with any restrictions ordered by the treating physician, the employee shall not be entitled to temporary benefits during the continuance of such refusal unless in the opinion of the treating physician such refusal was justifiable; provided, before compensation may be denied, the employee shall be served with a notice setting forth the consequences of the refusal of employment and that temporary benefits will be discontinued fifteen (15) days after the date of such notice. The employee, upon receipt of such notice, may seek a hearing before the Workers' Compensation Court. The Court shall grant an expedited hearing within five (5) days of any such application by the employee. At such hearing, the Court may enter an order allowing the discontinuation of such benefits, denying the discontinuance of such benefits or temporarily denying the discontinuance of such benefits pending further hearing. An order denying or temporarily denying the discontinuation of temporary benefits shall be based on a finding by the Court that probable cause exists to believe the work does not meet the conditions of the treating physician's restrictions or that the restrictions are unreasonable.

B. The employer's selected physician shall have the right and responsibility to treat the injured employee. A report of such examination shall be furnished to the employer and the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide medical treatment within three (3) days after actual knowledge of the injury is received by the employer, the injured employee, during the period of such neglect or failure, may select a physician to provide medical treatment at the expense of the employer; provided, however, that the injured employee, or another in the employee's behalf, may obtain emergency treatment at the expense of the employer where such emergency treatment is not provided by the employer. The attending physician so selected by the employee shall notify the employer and the insurance carrier within seven (7) days after examination or treatment was first rendered. Once the employer has selected a treating physician and has offered the employee treatment, the physician selected by the employer shall become the treating physician.

D. 1. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether

such entity is insured by CompSource Oklahoma, has previously contracted with a certified workplace medical plan, the employer shall select for the injured employee a treating physician from the physicians listed within the network of the certified workplace medical plan.

2. The claimant may apply for a change of physician by utilizing the dispute resolution process set out in the certified workplace medical plan on file with the State Department of Health.

E. The term "physician" as used in this section shall mean any person licensed in this state as a medical doctor, chiropractor, podiatrist, dentist, osteopathic physician or optometrist. The Court may accept testimony from a psychologist if the testimony is requested by the Court. If an injured employee should die, whether or not the employee has filed a claim, that fact shall not affect liability for medical attention previously rendered, and any person entitled to such benefits may enforce charges therefor as though the employee had survived.

F. 1. Whoever renders medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator.

2. Such charges and duration of treatment shall be limited to the usual, customary and reasonable payments and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Beginning January 1, 2006, the fee and treatment schedule for physician services shall be based on the most current Relative Value Units (RVU) produced by the Centers for Medicare and Medicaid Services (CMS) for the Medicare Physician Fee Schedule as of January 1 of the prior year. These relative values shall be multiplied by appropriate conversion factors to be determined by the Administrator. The conversion factors shall be adjusted by the Consumer Price Index and shall be adequate to reflect the usual and customary rates for treatment of workers' compensation patients taking into consideration all relevant factors including, but not limited to, the additional time required to provide disability management. The Current Procedural Terminology (CPT) codes shall be adjusted to reflect any changes or additions to the CPT codes and coding of supplies and materials as published by the American Medical Association (AMA) or CMS. If the AMA adds a new CPT code, the Administrator shall review the procedure contemplated by the new CPT code, and after such review, and notice and public hearing, the Administrator may add the new CPT code and set the base fee for the CPT code to ensure the adequacy of the physician's fee and treatment schedule. For services not valued by CMS, the Administrator shall establish values based on the usual, customary and reasonable medical payments to health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter the fee and treatment schedule to ensure its adequacy. The Administrator shall not increase the overall maximum reimbursement levels for health care providers, including hospitals and ambulatory surgical centers, in an amount exceeding the cumulative percentage of change of the Consumer Price Index – Urban (CPI-U) for all costs since the last biennial review. The fee schedule adopted by the Administrator as of January 1, 2006, shall be structured so as to result in at least a four-percent savings in workers' compensation medical costs. In no event shall the reimbursement rate for any single procedure be equal to an amount which is less than one hundred fifteen percent (115%) of the current Medicare reimbursement rate for the procedure.

3. The Administrator shall adopt a new fee and treatment schedule to be effective not later than January 1, 1998, which establishes maximum allowable reimbursement levels for preparation for or testimony at a deposition or court appearance which shall not exceed Two Hundred Dollars ($200.00) per hour and for work-related or medical disability evaluation services.

4. An invoice for the actual cost to the hospital of an implantable device shall be adjusted by the hospital to reflect all applicable discounts, rebates, considerations and product replacement programs and must be provided to the payor by the hospital as a condition of payment for the implantable device.

5. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus. When a medical care provider has brought a claim in the Workers' Compensation Court to obtain payment for services, a party who prevails in full on the claim shall be entitled to a reasonable attorney fee.

6. Charges for prescription drugs shall be limited to ninety percent (90%) of the average wholesale price of the prescription, plus a dispensing fee of Five Dollars ($5.00) per prescription. "Average wholesale price" means the amount determined from the latest publication of the blue book, a universally subscribed pharmacist reference guide annually published by the Hearst Corporation. "Average wholesale price" may also be derived electronically from the drug pricing database synonymous with the latest publication of the blue book and furnished in the National Drug Data File (NDDF) by First Data Bank (FDB), a service of the Hearst Corporation. Physicians shall prescribe and pharmacies shall dispense generic equivalent drugs when available.

G. Where the employee is not covered by a certified workplace medical plan, the employer shall select the treating physician. The Court on application of the employee shall order one change of treating physician. In the event the employee makes application for such a change, the employee shall list on such application three (3) proposed physicians who are qualified to treat the body part affected. The employer may agree to one of the physicians listed by the employee or submit its own list of three (3) physicians. If the employee and employer do not agree on the physician, the Court shall select from the list of independent medical examiners maintained by the Court a treating physician who is qualified to treat the body part affected and who can see the employee within a reasonable time. Additionally, a change of physician shall be allowed for each individual body part injured if the treating physician determines that the employee's injured body parts cannot be treated by the same physician.

H. 1. For cases not covered by a certified workplace medical plan, and where the insurance company does not provide case management, case management may be granted by the Workers' Compensation Court on the request of any party, or when the Court determines that case management is appropriate. The Court shall appoint a case manager from a list of qualified case managers developed, maintained and periodically reviewed by the Court.

2. The reasonable and customary charges of a medical case manager appointed by the Court shall be borne by the employer.

3. Except in cases covered by a certified workplace medical plan, upon application of the employee, the Court may order the employer to provide one change of case manager if the employee did not make the initial selection of the case manager.

I. Diagnostic tests shall not be repeated sooner than six (6) months from the date of the test unless agreed to by the parties or ordered by the Court.

SECTION 14.1
INTEGRATED MANAGEMENT OF CLAIMS PILOT PROGRAM

The Insurance Commissioner of the State of Oklahoma shall establish a pilot program of integrated management of an employer's workers' compensation and group health insurance claims by an insurer authorized to do business in the state and shall promulgate such rules as may be necessary to implement the provisions of this section. The integrated management of such claims shall in no event affect any benefits, rights or coverage established pursuant to a workers' compensation insurance policy.

SECTION 14.2
CERTIFIED WORKPLACE MEDICAL PLANS - SELECTION OF TREATING PHYSICIAN

A. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by CompSource, has contracted with a workplace medical plan that is certified by the State Commissioner of Health as provided in Section 14.3 of this title, the employer shall select for the injured employee a treating physician from the physicians listed within the network of the certified workplace medical plan. The claimant may apply to the certified workplace medical plan for a one-time change of physician to another appropriate physician within the network of the certified workplace medical plan by utilizing the dispute resolution process set out in the certified workplace medical plan on file with the State Department of Health.

Notwithstanding any other provision of law, those employees who are subject to such certified workplace medical plan shall receive medical treatment in the manner prescribed by the plan.

B. The provisions of this section shall not preclude:

1. An employee, who has exhausted the dispute resolution process of the certified workplace medical plan, from petitioning the Workers' Compensation Court or the Administrator of the Workers' Compensation Court for a change of treating physician within the certified workplace medical plan or, if a physician who is qualified to treat the employee's injuries is not available within the plan, for a change of physician outside the plan, if the physician agrees to comply with all the rules, terms and conditions of the certified workplace medical plan; or

2. An employee from seeking emergency medical treatment as provided in Section 14 of this title.

C. The provisions of this section shall not apply to treatment received by an employee for an accepted accidental injury or occupational disease for which treatment began prior to November 4, 1994.

SECTION 14.3
APPLICATION FOR CERTIFICATION OF WORKPLACE MEDICAL PLANS - INDEPENDENT INSURANCE CONTRACTS - EXHAUSTION REQUIREMENT - INSPECTION OF PLANS

A. Any person or entity may make written application to the Commissioner of Health of the State of Oklahoma to have a workplace medical plan certified that provides management of quality treatment to injured employees for injuries and diseases compensable under the Workers' Compensation Act. Each application for certification shall be accompanied by a fee of One Thousand Five Hundred Dollars ($1,500.00). A workplace medical plan may be certified to provide services to a limited geographic area. A certificate is valid for a five-year period, unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed program for providing services as the Commissioner may prescribe. The information shall include, but not be limited to:

1. A list of the names of all medical providers who will provide services under the plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state; and

2. A description of the places and manner of providing services under the plan.

B. 1. The Commissioner shall not certify a plan unless the Commissioner finds that the plan:

a. proposes to provide quality services for all medical services which:

(1) may be required by the Workers' Compensation Act in a manner that is timely, effective and convenient for the employee, and

(2) utilizes medical treatment guidelines and protocols substantially similar to those established for use by medical service providers, which have been recommended by the Physician Advisory Committee and adopted by the Administrator pursuant to subsection B of Section 201.1 of this title. If the Administrator has not adopted medical treatment guidelines and protocols, the Commissioner may certify a plan that utilizes medical guidelines and protocols established by the plan if, in the discretion of the Commissioner, the guidelines and protocols are reasonable and will carry out the intent of the Workers' Compensation Act. Certified plans must utilize medical treatment guidelines and protocols substantially similar to those adopted by the Administrator pursuant to Section 201.1 of this title, as such guidelines and protocols become adopted,

b. is reasonably geographically convenient to residents of the area for which it seeks certification,

c. provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service,

d. provides adequate methods of peer review, utilization review and dispute resolution to prevent inappropriate, excessive or medically unnecessary treatment, and excludes participation in the plan by those providers who violate these treatment standards,

e. requires the dispute resolution procedure of the plan to include a requirement that disputes on an issue, including a subsequent change of physician as described in the provisions of Section 14 of this title and this section, related to medical care under the plan be attempted to be resolved within ten (10) days of the time the dispute arises and if not resolved within ten (10) days, the employee may pursue remedies in the Workers' Compensation Court,

f. provides aggressive case management for injured employees and a program for early return to work,

g. provides workplace health and safety consultative services,

h. provides a timely and accurate method of reporting to the Commissioner necessary information regarding medical service costs and utilization to enable the Commissioner to determine the effectiveness of the plan,

i. authorizes necessary emergency medical treatment for an injury provided by a provider of medical, surgical, and hospital services who is not a part of the plan,

j. does not discriminate against or exclude from participation in the plan any category of providers of medical, surgical, or hospital services and includes an adequate number of each category of providers of medical, surgical, and hospital services to give participants access to all categories of providers and does not discriminate against ethnic minority providers of medical services, and

k. complies with any other requirement the Commissioner determines is necessary to provide quality medical services and health care to injured employees.

2. The Commissioner may accept findings, licenses or certifications of other state agencies as satisfactory evidence of compliance with a particular requirement of this section.

C. If any insurer, except CompSource Oklahoma, fails to contract with or provide access to a certified workplace medical plan, an insured, after sixty (60) days' written notice to its insurance carrier, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year, to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to its insurance carrier, for additional one-year periods if his or her insurer has not contracted with or provided access to a certified workplace medical plan.

D. If CompSource Oklahoma fails to contract with at least three certified workplace medical plans, each covering at least fifty counties, then the insured, after sixty (60) days' written notice to CompSource Oklahoma, shall be authorized to contract independently with a plan of the insured's choice for a period of one (1) year to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to CompSource Oklahoma, for additional one-year periods if CompSource Oklahoma has not contracted with or fails to continue contracts with at least three certified workplace medical plans covering at least fifty counties.

E. An employee shall exhaust the dispute resolution procedure of the certified workplace medical plan before seeking legal relief on an issue related to medical care under the plan, including a subsequent change of physician as described in the provisions of Section 14 of this title and this section, provided the dispute resolution procedure shall create a process which shall attempt to resolve the dispute within ten (10) days of the time the dispute arises and if not resolved within ten (10) days, the employee may pursue remedies in the Workers' Compensation Court.

F. The Commissioner shall refuse to certify or shall revoke or suspend the certification of a plan if the Commissioner finds that the program for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a plan.

G. On or before November 1, 2005, the Commissioner of Health shall implement a site visit protocol for employees of the State Department of Health to perform an inspection of a certified workplace medical plan to ensure that medical services to a claimant and the medical management of the claimant's needs are adequately met in a timely manner and that the certified workplace medical plan is complying with all other applicable provisions of this act and the rules of the State Department of Health. Such protocol shall include, but not be limited to:

1. A site visit shall be made to each certified workplace medical plan not less often than once every year, but not later than thirty (30) days following the anniversary date of issuance of the initial or latest renewal certificate;

2. A site visit shall conclude with a determination that a certified workplace medical plan is or is not operating in accordance with its latest application to the State Department of Health;

3. Compliant operations shall include, but not be limited to:

   a. timely and effective medical services are available with reasonable geographic convenience,

   b. use of appropriate treatment guidelines and protocols, and

   c. effective programs for utilization review, case management, grievances, and dispute resolution;

4. Performance of a site visit shall include:

   a. inspection of organizational documentation,

   b. inspection of systems documentation and processes,

   c. random or systematic sampling of closed and open case management cases (files),

d. random or systematic sampling, or a one hundred percent (100%) inspection of all dispute resolution, grievance, and/or Department of Health request for assistance files,

e. workplace medical plan employee and management interviews, as appropriate;

5. An initial site visit may occur with an interval of less than twelve (12) months to a recently certified plan, or a site visit may occur more often than once in every twelve (12) months if the Commissioner of Health has reason to suspect that a plan is not operating in accordance with its certification;

6. If a deficient practice is identified during a site visit, the State Department of Health shall require a certified workplace medical plan to submit a timely and acceptable written plan of correction, and then may perform a follow-up visit(s) to ensure that the deficient practice has been eliminated;

7. A deficient practice that is not remedied by a certified workplace medical plan on a timely basis shall require the Commissioner of Health to revoke or to suspend the certification of a plan;

8. The fees payable to the State Department of Health shall be:

a. One Thousand Five Hundred Dollars ($1,500.00) for an initial, annual site visit,

b. One Thousand Dollars ($1,000.00) if a follow-up visit is performed,

c. separate from the once in five (5) years certification application fee, and

d. not charged if more than two site visits occur in a twelve-month period; and

9. In addition to the site visit fee, employees of the State Department of Health may charge to the certified workplace medical plan reasonable travel and travel-related expenses for the site visit such as overnight lodging and meals. A certified workplace medical plan shall reimburse travel expenses to the State Department of Health at rates equal to the amounts then currently allowed under the State Travel Reimbursement Act.

H. The State Board of Health shall adopt such rules as may be necessary to implement the provisions of this title and this section. Such rules shall authorize any person to petition the Commissioner of Health for decertification of a certified workplace medical plan for material violation of any rules promulgated pursuant to this section.

SECTION 15

PROSTHETIC DEVICES

Where a compensable injury results in the loss of one or more eyes, teeth, or limbs of the body, the employer shall furnish such prosthetic devices as may be necessary as determined by the Court in the treatment and rehabilitation of the injured workman. Where a workman sustains a compensable injury, arising out of and in the course of his employment, which results in damage to a prosthetic device with which such workman is equipped, the employer shall repair or replace such device.

SECTION 16

REHABILITATION AND JOB PLACEMENT SERVICES

A. An employee who has suffered an accidental injury or occupational disease covered by the Workers' Compensation Act shall be entitled to prompt and reasonable physical rehabilitation services. When, as a result of the injury, the employee is unable to perform the same occupational duties he was performing prior to the injury, the employee shall be entitled to such vocational rehabilitation services provided by a technology center school, a public vocational skills center or public secondary school offering vocational-technical education courses, or a member institution of The Oklahoma State System of Higher Education, which shall include retraining and job placement so as to restore the employee to gainful employment. No person shall be adjudicated to be permanently and totally disabled unless first having obtained an evaluation as to the practicability of restoration to gainful employment through vocational rehabilitation services or training. The employee shall pay the cost of the evaluation. If an employee claiming permanent total disability status unreasonably refuses to be evaluated or to accept vocational rehabilitation

services or training, permanent total disability benefits shall not be awarded during the period of such refusal, and the employee shall be limited to permanent partial disability benefits only. The Administrator shall promulgate rules governing notice to an injured employee of the right to receive vocational rehabilitation. If rehabilitation services are not voluntarily offered by the employer and accepted by the employee, the judge of the Court may on the Court's own motion, or if requested by a party may, after affording all parties an opportunity to be heard, refer the employee to a qualified physician or facility for evaluation of the practicability of, need for and kind of rehabilitation services or training necessary and appropriate in order to restore the employee to gainful employment. The cost of the evaluation shall be paid by the employer. Following the evaluation, if the employee refuses the services or training ordered by the Court, or fails to complete in good faith the vocational rehabilitation training ordered by the Court, then the cost of the evaluation and services or training rendered may, in the discretion of the Court, be deducted from any award of benefits to the employee which remains unpaid by the employer. Upon receipt of such report, and after affording all parties an opportunity to be heard, the Court shall order that any rehabilitation services or training, recommended in the report, or such other rehabilitation services or training as the Court may deem necessary, provided the employee elects to receive such services, shall be provided at the expense of the employer. Except as otherwise provided in this subsection, refusal to accept rehabilitation services by the employee shall in no way diminish any benefits allowable to an employee.

B. Vocational rehabilitation services or training shall not extend for a period of more than fifty-two (52) weeks. This period may be extended for an additional fifty-two (52) weeks or portion thereof by special order of the Court, after affording the interested parties an opportunity to be heard. A request for vocational rehabilitation services or training may be filed with the Administrator by an interested party at any time after the date of injury but not later than sixty (60) days from the date of the final determination that permanent partial disability benefits are payable to the employee.

C. Where rehabilitation requires residence at or near the facility or institution which is away from the employee's customary residence, reasonable cost of the employee's board, lodging, travel, tuition, books and necessary equipment in training shall be paid for by the insurer in addition to weekly compensation benefits to which the employee is otherwise entitled under the Workers' Compensation Act.

D. During the period when an employee is actively and in good faith being evaluated or participating in a retraining or job placement program for purposes of evaluating permanent total disability status, the employee shall be entitled to receive benefits at the same rate as the employee's temporary total disability benefits computed pursuant to Section 22 of this title for a period of fifty-two (52) weeks which may be extended by the Court for up to a maximum of an additional fifty-two (52) weeks. No attorney fees shall be awarded or deducted from such benefits received during this period. All tuition related to vocational rehabilitation services shall be paid by the employer or the employer's insurer on a periodic basis directly to the facility providing the vocational rehabilitation services or training to the employee.

SECTION 17
DETERMINATION OF DISABILITY - INDEPENDENT MEDICAL EXAMINERS - TERMINATION OF TEMPORARY TOTAL DISABILITY

A. 1. The determination of disability shall be the responsibility of the Workers' Compensation Court. Any claim submitted by an employee for compensation for permanent disability must be supported by competent medical testimony which shall be supported by objective medical findings, as defined in Section 3 of this title, and which shall include an evaluation by the treating physician or an independent medical examiner if there is no evaluation by the treating physician, stating his or her opinion of the employee's percentage of permanent impairment and whether or not the impairment is job-related and caused by the accidental injury or occupational disease. A copy of any written evaluation shall be sent to both parties within seven (7) days of issuance. Medical opinions addressing compensability and permanent impairment must be stated within a reasonable degree of medical certainty. For purposes of this section, a physician shall have the same meaning as defined in Section 14 of this title and shall include a person licensed by another

state who would be qualified to be a licensed physician under the laws of this state.

2. Any party may object to the opinion of the treating physician by giving written notice to all other parties and to the Court. Upon receipt of such notice, if the parties fail to agree on the selection of an independent medical examiner, the Court shall randomly select an independent medical examiner who shall be afforded a reasonable opportunity to examine the employee together with all medical records involved and any other medical data or evidence that the independent medical examiner may consider to be relevant. The independent medical examiner shall issue a verified written report on a form provided by the Administrator to the Court stating his or her finding of the percentage of permanent impairment of the employee and whether or not the impairment is job-related and caused by the accidental injury or occupational disease

a. There shall be a rebuttable presumption in favor of the treating physician's opinions on the issue of temporary disability, permanent disability, causation, apportionment, rehabilitation or necessity of medical treatment. Any determination of the existence or extent of physical impairment shall be supported by objective medical evidence, as defined in Section 3 of this title.

b. The Independent Medical Examiner shall be allowed to examine the claimant, receive any medical reports submitted by the parties and review all medical records of the claimant. If the Independent Medical Examiner determines that the opinion of the treating physician is supported by the objective medical evidence, the Independent Medical Examiner shall advise the Court of the same. If the Independent Medical Examiner determines that the opinion of the treating physician is not supported by objective medical evidence, the Independent Medical Examiner shall advise the Court of the same and shall provide the Court with his or her own opinion. In cases in which an independent medical examiner is appointed, the Court shall not consider the opinion of the Independent Medical Examiner unless the Independent Medical Examiner determines that the opinion of the treating physician is not supported by objective medical evidence, in which case the Court shall follow the opinion of the Independent Medical Examiner, the opinion of the treating physician or establish its own opinion within the range of opinions of the treating physician and the Independent Medical Examiner. If the Court does not follow the opinion of the treating physician, the Court shall set out its reasons for deviating from the opinion of the treating physician.

3. Any party may request the deposition testimony of the treating physician or the Independent Medical Examiner providing a written medical report on the issue of temporary disability, permanent disability, causation, apportionment or rehabilitation. The party requesting the deposition testimony of any such physician shall be responsible for the reasonable charges of the physician for such testimony, preparation time, and the expense of the deposition.

B. Upon receipt of an independent medical examiner's report, any party shall have the right to object to the introduction into evidence of the report. The objection must be made by giving written notification to all parties and to the Court within ten (10) days after receipt of the report. The Independent Medical Examiner shall then testify in person or by deposition.

C. An independent medical examiner who is selected pursuant to the provisions of this section shall be reimbursed for the review of the medical records and any medical examination, reports and fees in a reasonable and customary amount set by the Court, and these costs shall be borne by the party objecting to the opinion of the treating physician unless the opinion of the Independent Medical Examiner favors the objecting party in which case the other party shall bear the costs.

D. 1. The Court shall develop and implement an independent medical examiner system by no later than July 1, 1995. The Court shall create, maintain and review a list of licensed physicians who shall serve as independent

medical examiners from a list of licensed physicians who have completed such course study as the Administrator of the Workers' Compensation Court may require. Such courses shall provide training to establish familiarity with the American Medical Association's "Guides to the Evaluation of Permanent Impairment", or alternative method or system of evaluating permanent impairment, for the category of injury established by the Administrator for which such physician desires to be an independent medical examiner. The Court shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured employees. The Court may remove an independent medical examiner from the list for cause.

2. An independent medical examiner in a case involving permanent disability shall not be a treating physician of the employee and shall not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a health care provider authorized to receive reimbursement under Section 14 of this title to be randomly selected to serve in the capacity of an independent medical examiner.

3. The Court shall randomly select an independent medical examiner from the list of independent medical examiners within fifteen (15) days when the employer or the employee petitions the Court for the selection of an independent medical examiner on the grounds that the petitioner disagrees with the findings of the treating physician. Whenever possible, the Independent Medical Examiner shall be certified by a recognized American medical specialty board in the area or areas appropriate to the condition under review.

4. The Court shall, to the best of its ability, maintain a geographic balance of independent medical examiners.

5. The treating physician is responsible for the expeditious transmittal of the employee's medical records to the Independent Medical Examiner. The parties are responsible for the expeditious transmittal of prior Court orders involving the employee, and other pertinent information to the Independent Medical Examiner.

6. The Independent Medical Examiner shall submit a verified written report to the Court as provided in subsection A of this section and shall provide a copy of the report to the parties. In the event the Independent Medical Examiner determines that more medical treatment is necessary or in the event the treating physician refuses to treat, the employer shall designate a treating physician to provide the indicated treatment, as provided in Section 14 of this title.

7. If the Independent Medical Examiner determines that the employee is capable of returning to work and the claimant elects not to do so, temporary total disability benefits shall cease. In any case where the claimant contests the cessation of such benefits, the Court shall hear the dispute within thirty (30) days after the filing of the employee's Motion to Set for Trial. The trial shall not be delayed unless both parties agree.

8. Any independent medical examiner who is selected pursuant to the provisions of this subsection shall be reimbursed for the medical examination, reports and fees in a reasonable and customary amount set by the Court, and these costs shall be borne by the employer.

9. The Court, in consultation with the Advisory Council on Workers' Compensation, shall create a review process to oversee on a continuing basis the quality of performance and the timeliness of the submission of medical findings by independent medical examiners.

10. When the injured worker is released from treatment by the treating physician for all body parts injured, the employer may terminate temporary total disability by notifying the employee of the termination. The employee is entitled to one objection under this paragraph.

a. If an objection to the termination is filed by the employee within twenty (20) days of receipt of the notice of termination, then the Court shall appoint an independent medical examiner to determine if further medical treatment is reasonable and necessary. The Independent Medical Examiner shall not provide treatment to the injured worker. The employer shall bear the cost of the independent medical examination.

b. An aggrieved party shall have ten (10) days from receipt of the medical report of the Independent Medical Examiner to file an objection. If an objection is timely filed, the deposition of the Independent Medical Examiner shall be taken and the matter submitted to the Court for a final determination. The objecting party shall bear the cost of deposition.

11. The Court shall promulgate rules necessary to effectuate the purposes of this subsection.

E. The impairment rating determined by the Independent Medical Examiner shall be based upon objective medical evidence.

F. In no event may an independent medical examiner, whether directly, or indirectly by virtue of a pecuniary interest, economically benefit from the performance of treatment of an employee whose claim the independent medical examiner has reviewed for permanent impairment, return to work, or the necessity of further medical treatment, unless both employee and employer agree through written stipulation and said stipulation occurs prior to appointment, referral and notice to said independent medical examiner.

SECTION 21

BASIS OF COMPENSATION - DETERMINING WEEKLY WAGES - TIME OF SERVICE

Except as otherwise provided in this act, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of two hundred sixty times the average daily wage or salary which he shall have earned in such employment during the days when so employed.

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of two hundred sixty times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, such annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the accident.

4. The average weekly wages of an employee shall be one fifty-second (1/52) part of his average annual earnings.

5. If it be established that the injured employee was a minor when injured, and that under normal conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wages.

SECTION 22

SCHEDULE OF COMPENSATION

The following schedule of compensation is hereby established:

1. Permanent Total Disability. In case of total disability adjudged to be permanent, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance of such total disability.

2. Temporary Total Disability. (a) With respect to injuries occurring before November 4, 1994, in cases of temporary total disability, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of one hundred fifty (150) weeks, except as otherwise provided in the Workers' Compensation Act. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Workers' Compensation Court for

continued temporary total disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

(b) With respect to injuries occurring on or after November 4, 1994, in cases of temporary total disability, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of fifty-two (52) weeks, except as otherwise provided in the Workers' Compensation Act. Provided, after compensation has been paid for a period of forty-two (42) weeks, the employee may request a review of the case by a judge of the Court for continued temporary total disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial fifty-two-week period, compensation may be continued for additional successive fifty-two-week periods, provided the employee has requested review of the case at forty-two (42) weeks during each period involved, and upon a finding by the Court that benefits should be extended. Total payments of compensation for temporary total disability may not exceed a maximum of three hundred (300) weeks in the aggregate.

(c) With respect to injuries occurring on or after November 1, 1997, total payments of compensation for temporary total disability may not exceed a maximum of one hundred fifty-six (156) weeks in the aggregate except for good cause shown, as determined by the Court. Total payments of compensation for temporary total disability, inclusive of consequential injuries, may not exceed a maximum of three hundred (300) weeks in the aggregate.

3. Permanent Partial Disability. (a) With respect to injuries occurring prior to November 4, 1994, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period named in the schedule, as follows:

Thumb: For the loss of thumb, sixty (60) weeks.

First Finger: For the loss of the first finger, commonly called the index finger, thirty-five (35) weeks.

Second Finger: For the loss of a second finger, thirty (30) weeks.

Third Finger: For the loss of a third finger, twenty (20) weeks.

Fourth Finger: For the loss of a fourth finger, commonly called the little finger, fifteen (15) weeks.

Phalange of Thumb or Finger: The loss of the first phalange of the thumb or finger shall be considered equal to the loss of one-half (½) of such thumb or finger, and compensation shall be one-half (½) of the amount above specified; the loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe: For the loss of a great toe, thirty (30) weeks.

Other Toes: For the loss of one of the toes other than the great toe, ten (10) weeks.

Phalange of Toe: The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half (½) of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand: For the loss of a hand, two hundred (200) weeks.

Arm: For the loss of an arm, two hundred fifty (250) weeks.

Foot: For the loss of a foot, two hundred (200) weeks.

Leg: For the loss of a leg, two hundred fifty (250) weeks.

Eye: For the loss of an eye, two hundred fifty (250) weeks.

Deafness: Deafness from industrial cause, including occupations which are hazardous to

hearing, accident or sudden trauma, three hundred (300) weeks, and total deafness of one ear from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, one hundred (100) weeks. Except as otherwise provided herein, any examining physician shall only evaluate deafness or hearing impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. Except as otherwise provided in Section 11 of this title, all evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides or any alternative thereof except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. The guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to deafness or hearing impairment.

Loss of Use: Permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

For the permanent partial loss of use of a member, loss of hearing or sight of an eye, seventy percent (70%) of the employee's average weekly wage during that portion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member, loss of hearing or sight of an eye.

Amputations: Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation

at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in Section 14 of this title and Section 16 of this title.

In case of an injury resulting in serious and permanent disfigurement, compensation shall be payable in an amount to be determined by the Court, but not in excess of Twenty Thousand Dollars ($20,000.00); provided, that compensation for permanent disfigurement shall not be in addition to the other compensation provided for in this section, but shall be taken into consideration in fixing the compensation otherwise provided.

Hernia: In case of an injury resulting in hernia, temporary total compensation for fourteen (14) weeks, and the cost of an operation shall be payable; provided, in any case where the injured employee has been twice previously operated for hernia in the same area and it is established by opinion of a competent surgeon that further surgery in the same area will not result in full relief of the condition, the Court may then award compensation for disability resulting therefrom under paragraph 1 of this section, or, if not totally and permanently disabled; then under the "Other Cases" subdivision following, and, after a second surgical attempt to repair hernia, the injured may not be required to submit to further surgery in an effort to relieve the disability thereafter existing; provided, further, the use of any artificial reinforcement or device, with or without surgery, shall not be the basis of reducing extent of disability to be awarded.

Other Cases: In all other classes of disabilities, excluding only those heretofore referred to in paragraph 3 of this section, which disabilities result in loss of use of any portion of an employee's body, and which disabilities are permanent in quality but partial in character, disability shall mean the percentage of permanent impairment. The compensation ordered paid shall be seventy percent (70%) of the employee's average weekly wage for the number of weeks which the partial disability of the employee bears to five hundred (500) weeks.

(b) With respect to injuries occurring after November 4, 1994, through December 31, 2001, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period prescribed by the following schedule:

(1) For each percent of the first nine percent (9%) of disability, eighty percent (80%) of the number of weeks of compensation provided by law prior to November 4, 1994;

(2) For each percent of the next eleven percent (11%) of disability, the identical number of weeks of compensation provided by law prior to November 4, 1994;

(3) For each percent of the next thirty percent (30%) of disability, one hundred twenty percent (120%) of the number of weeks of compensation provided by law prior to November 4, 1994; and

(4) For each remaining percent of disability, the identical number of weeks of compensation provided by law prior to November 4, 1994.

(c) With respect to injuries occurring on or after January 1, 2002, through December 31, 2002, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period prescribed by the following schedule:

Thumb: For the loss of thumb, sixty-three (63) weeks.

First Finger: For the loss of the first finger, commonly called the index finger, thirty-seven (37) weeks.

Second Finger: For the loss of a second finger, thirty-two (32) weeks.

Third Finger: For the loss of a third finger, twenty-one (21) weeks.

Fourth Finger: For the loss of a fourth finger, commonly called the little finger, sixteen (16) weeks.

Phalange of Thumb or Finger: The loss of the first phalange of the thumb or finger shall be considered equal to the loss of one-half (½) of such thumb or finger, and compensation shall be one-half (½) of the amount above specified; the loss of more than one phalange shall be

considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe: For the loss of a great toe, thirty-two (32) weeks.

Other Toes: For the loss of one of the toes other than the great toe, eleven (11) weeks.

Phalange of Toe: The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half (½) of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand: For the loss of a hand, two hundred ten (210) weeks.

Arm: For the loss of an arm, two hundred sixty-three (263) weeks.

Foot: For the loss of a foot, two hundred ten (210) weeks.

Leg: For the loss of a leg, two hundred sixty-three (263) weeks.

Eye: For the loss of an eye, two hundred sixty-three (263) weeks.

Deafness: Deafness from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, three hundred fifteen (315) weeks, and total deafness of one ear from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, one hundred five (105) weeks. Except as otherwise provided herein, any examining physician shall only evaluate deafness or hearing impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. Except as otherwise provided in Section 11 of this title, all evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from

such guides or any alternative thereof except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto adopted by the Administrator of the Workers' Compensation Court as provided in Section 201.1 of this title. The guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to deafness or hearing impairment.

Loss of Use: Permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

For the permanent partial loss of use of a member, loss of hearing or sight of an eye, seventy percent (70%) of the employee's average weekly wage during that portion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member, loss of hearing or sight of an eye.

Amputations: Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in Section 14 of this title and Section 16 of this title.

In case of an injury resulting in serious and permanent disfigurement, compensation shall be payable in an amount to be determined by the Court, but not in excess of Twenty Thousand Dollars ($20,000.00); provided, that compensation for permanent disfigurement shall not be in addition to the other compensation provided for in this section but shall be taken into consideration in fixing the compensation otherwise provided.

Hernia: In case of an injury resulting in hernia, temporary total compensation for six (6) weeks, and the cost of an operation shall be payable, unless the employee has not been released from active medical treatment, temporary total compensation not to exceed nine (9) weeks, and the cost of an operation shall be payable; provided, in any case where the injured employee has been twice previously operated on for hernia in the same area and it is established by opinion of a competent surgeon that further surgery in the same area will not result in full relief of the condition, the Court may then award compensation for disability resulting therefrom under paragraph 1 of this section, or, if not totally and permanently disabled, then under the "Other Cases" subdivision following, and, after a second surgical attempt to repair hernia, the injured may not be required to submit to further surgery in an effort to relieve the disability thereafter existing; provided further, the use of any artificial reinforcement or device, with or without surgery, shall not be the basis of reducing extent of disability to be awarded.

Other Cases: In all other classes of disabilities, excluding only those heretofore referred to in this paragraph, which disabilities result in loss of use of any portion of an employee's body, and which disabilities are partial in character but permanent in quality, disability shall mean the percentage of permanent impairment. The compensation ordered paid shall be seventy percent (70%) of the employee's average weekly wage for the number of weeks which the partial disability of the employee bears to five hundred (500) weeks.

(d) With respect to injuries occurring on or after January 1, 2003, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period prescribed by the following schedule:

Thumb: For the loss of thumb, sixty-six (66) weeks.

First Finger: For the loss of the first finger, commonly called the index finger, thirty-nine (39) weeks.

Second Finger: For the loss of a second finger, thirty-three (33) weeks.

Third Finger: For the loss of a third finger, twenty-two (22) weeks.

Fourth Finger: For the loss of a fourth finger, commonly called the little finger, seventeen (17) weeks.

Phalange of Thumb or Finger: The loss of the first phalange of the thumb or finger shall be considered equal to the loss of one-half (½) of such thumb or finger, and compensation shall be one-half (½) of the amount above specified; the loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe: For the loss of a great toe, thirty-three (33) weeks.

Other Toes: For the loss of one of the toes other than the great toe, eleven (11) weeks.

Phalange of Toe: The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half (½) of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand: For the loss of a hand, two hundred twenty (220) weeks.

Arm: For the loss of an arm, two hundred seventy-five (275) weeks.

Foot: For the loss of a foot, two hundred twenty (220) weeks.

Leg: For the loss of a leg, two hundred seventy-five (275) weeks.

Eye: For the loss of an eye, two hundred seventy-five (275) weeks.

Deafness: Deafness from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, three hundred thirty (330) weeks, and total deafness of one ear from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, one hundred ten (110) weeks. Except as otherwise provided herein, any examining physician shall only evaluate deafness or hearing impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. Except as otherwise provided in Section 11 of this title, all evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the

legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from such guides or any alternative thereof except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto adopted by the Administrator of the Workers' Compensation Court as provided in Section 201.1 of this title. The guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to deafness or hearing impairment.

Loss of Use: Permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

For the permanent partial loss of use of a member, loss of hearing or sight of an eye, seventy percent (70%) of the employee's average weekly wage during that portion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member, loss of hearing or sight of an eye.

Amputations: Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in Section 14 of this title and Section 16 of this title.

In case of an injury resulting in serious and permanent disfigurement, compensation shall be payable in an amount to be determined by the Court, but not in excess of Twenty Thousand Dollars ($20,000.00) for an injury occurring before November 1, 2005, and not in excess of Fifty Thousand Dollars ($50,000.00) for an injury occurring on or after November 1, 2005; provided, that compensation for permanent disfigurement shall not be in addition to the other compensation provided for in this section but shall be taken into consideration in fixing the compensation otherwise provided.

Hernia: In case of an injury resulting in hernia, temporary total compensation for six (6) weeks, and all necessary medical costs including, but not limited to, the cost of an operation shall be payable. A claimant who has had surgery for a hernia may petition the court for one extension of temporary total compensation and the court may order such an extension, not to exceed six (6) additional weeks, if the treating physician indicates such an extension is appropriate, or as agreed to by all parties.

Soft Tissue Injury: In case of a nonsurgical soft tissue injury, temporary total compensation shall not exceed eight (8) weeks. A claimant who has been recommended by a treating physician for surgery for a soft tissue injury may petition the Court for one extension of temporary total compensation and the court may order such an extension, not to exceed sixteen (16) additional weeks, if the treating physician indicates that such an extension is appropriate or as agreed to by all parties. In the event the surgery is not performed, the benefits for the extension period shall be terminated. For purposes of this section, "soft tissue injury" means damage to one or more of the tissues that surround bones and joints. "Soft tissue injury" includes, but is not limited to: sprains, strains, contusions, tendonitis, and muscle tears. Cumulative trauma is to be considered a soft tissue injury. "Soft tissue injury" does not include any of the following:

(1) Injury to or disease of the spine, spinal disks, spinal nerves or spinal cord, where corrective surgery is performed;

(2) Brain or closed-head injury as evidenced by:

a. sensory or motor disturbances,

b. communication disturbances,

c. complex integrated disturbances of cerebral function,

d. episodic neurological disorders, or

e. other brain and closed-head injury conditions at least as severe in nature as any condition provided in subdivisions a through d of this division; or

(3) Total knee replacement.

In all cases of soft tissue injury, the employee shall only be entitled to appropriate and necessary medical care and temporary total disability as set out in paragraph 2 of this section, unless there is objective medical evidence of a permanent anatomical abnormality. In determining the existence of such an abnormality, the Court may consider if there is credible medical evidence that the ability of the employee to earn wages at the same level as before the injury has been permanently impaired.

Other Cases: In all other classes of disabilities, excluding only those heretofore referred to in this paragraph, which disabilities result in loss of use of any portion of an employee's body, and which disabilities are partial in character but permanent in quality, disability shall mean the percentage of permanent impairment. The compensation ordered paid shall be seventy percent (70%) of the employee's average weekly wage for the number of weeks which the partial disability of the employee bears to five hundred (500) weeks. No permanent disability shall be awarded unless there is objective medical evidence, as defined in Section 3 of this title, of a permanent anatomical abnormality. In determining the existence of such an abnormality, the Court may consider if there is credible medical evidence that the ability of the employee to earn wages at the same level as before the injury has been permanently impaired.

4. Temporary Partial Disability. (a) With respect to injuries occurring before November 4, 1994, in case of temporary partial disability, except the particular cases mentioned in paragraph 3 of this section, an injured employee shall receive seventy percent (70%) of the difference between the employee's average weekly wages and the employee's wage-earning capacity thereafter in the same employment or otherwise, if less than before the injury, during continuance of such partial disability, but not to exceed one hundred fifty (150) weeks. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Court for continued temporary partial disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

(b) With respect to injuries occurring on or after November 4, 1994, in case of temporary partial disability, except the particular cases mentioned in paragraph 3 of this section, an injured employee shall receive seventy percent (70%) of the difference between the employee's average weekly wages and the employee's wage-earning capacity thereafter in the same employment or otherwise, if less than before the injury, during continuance of such partial disability, but not to exceed fifty-two (52) weeks. Provided, after compensation has been paid for a period of forty-two (42) weeks, the employee may request a review of the case by a judge of the Court for continued temporary partial disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial fifty-two-week period, compensation may be continued for additional successive fifty-two-week periods provided the employee has requested review of the case at forty-two (42) weeks during each period involved, and upon a finding by the Court that benefits should be extended. Total payments of compensation for temporary partial disability may not exceed a maximum of three hundred (300) weeks in the aggregate.

(c) With respect to injuries occurring on or after November 1, 1997, total payments of compensation for temporary partial disability may not exceed a maximum of one hundred fifty-six (156) weeks in the aggregate except for good cause shown, as determined by the Court. Total payments of compensation for temporary partial disability, inclusive of consequential injuries, may not exceed a maximum of three hundred (300) weeks in the aggregate.

5. Notwithstanding any other section of the Workers' Compensation Act, temporary disability shall be payable without an award by the Court. The first payment of temporary disability

compensation shall become due on the tenth day after the employer has received notice of injury as specified in Section 24.2 of this title. All compensation owed on that date shall be paid and thereafter payments shall be made weekly except when otherwise ordered by the Court.

If any compensation payments owed without an award are not paid within ten (10) days after becoming due, there shall be added to such owed payments an amount equal to ten percent (10%) of the amount due which shall be paid at the same time in addition to the owed payments unless such nonpayment is excused by the Court after a showing by the employer that conditions exist over which the employer had no control in that either payments were not made within the prescribed time or the employer denies coverage within the time specified for the employer to respond.

6. Limitation. The compensation payments under the provisions of the Workers' Compensation Act shall not exceed the sum of seventy-five percent (75%) of the state's average weekly wage as determined by the Oklahoma Employment Security Commission, the sum of ninety percent (90%) of the state's average weekly wage beginning January 1, 1995, for injuries occurring after December 31, 1994, and the sum of one hundred percent (100%) of the state's average weekly wage beginning January 1, 1996, for injuries occurring after December 31, 1995, for temporary disability; Sixty Dollars ($60.00) per week beginning as of the effective date of the Workers' Compensation Act, and Seventy Dollars ($70.00) per week beginning January 1, 1979, and Eighty Dollars ($80.00) per week beginning January 1, 1980, and Ninety Dollars ($90.00) per week beginning January 1, 1981, and to fifty percent (50%) of the state's average weekly wage beginning January 1, 1982, for permanent partial disability; Seventy-five Dollars ($75.00) per week beginning as of the effective date of the Workers' Compensation Act, and Ninety Dollars ($90.00) per week beginning January 1, 1979, and One Hundred Ten Dollars ($110.00) per week beginning January 1, 1980, to sixty-six and two-thirds percent (66 2/3%) of the state's average weekly wage beginning January 1, 1981, to seventy-five percent (75%) of the state's average weekly wage beginning September 1, 1992, to ninety percent (90%) of the state's average weekly wage beginning January 1, 1995, for injuries occurring after December 31, 1994, and to one hundred percent (100%) of the state's average weekly wage beginning January 1, 1996, for injuries occurring after December 31, 1995, for permanent total disability, or at any time be less than Thirty Dollars ($30.00) per week; provided, however, that if the employee's wages at the time of the injury are less than Thirty Dollars ($30.00) per week, the employee shall receive the employee's full weekly wages; provided further, that the compensation received, as provided for temporary partial disability, shall not, when added to the wages received by such employee after such injury, amount to a greater sum than eighty percent (80%) of the average weekly wages of the employee received prior to said injury.

The average weekly wage in this state shall be determined by the Oklahoma Employment Security Commission every year beginning July 1, 1984, and shall be used to establish maximum benefits under the Workers' Compensation Act for injuries occurring during a one-year period, which period shall begin on the first day of November after publication by the Oklahoma Employment Security Commission. For the purpose of computing benefits payable under the Workers' Compensation Act, the state's average weekly wage shall be rounded to the nearest dollar amount.

The benefit level for members of the National Guard and any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker shall be determined by using the earnings of the individual in the individual's regular occupation.

7. Previous Disability. The fact that an employee has suffered previous disability or impairment or received compensation therefor shall not preclude the employee from compensation for a later accidental personal injury or occupational disease; but in determining compensation for the later accidental personal injury or occupational disease the employee's average weekly wages shall be such sum as will reasonably represent the employee's earning capacity at the time of the later accidental personal injury or occupational disease. In the event there exists a previous impairment, including a previous non-work-related injury or condition which produced permanent disability and the same is aggravated or accelerated by an accidental personal injury or occupational disease, compensation for permanent disability shall be only for such amount as was caused by such

accidental personal injury or occupational disease and no additional compensation shall be allowed for the pre-existing disability or impairment. The sum of all permanent partial disability awards, excluding awards against the Multiple Injury Trust Fund and awards for amputations, and surgeries, shall not exceed one hundred percent (100%) permanent partial disability for any individual. An individual may not receive more than five hundred twenty (520) weeks' compensation for permanent partial disability, but may receive other benefits under the Workers' Compensation Act if otherwise eligible as provided in the Workers' Compensation Act.

8. Income benefits for death. If the injury or occupational disease causes death, income benefits shall be payable in the amount and for the benefit of the persons following, subject to the maximum limits specified hereafter:

(a) Benefit amounts for particular classes of dependents.

(1) If there is a surviving spouse, to such surviving spouse seventy percent (70%) of the average weekly wages the deceased was earning. In no event shall this spousal income benefit be diminished.

(2) If there is a child or children, to such child or children fifteen percent (15%) of the average weekly wages the deceased was earning for each child. Where there are more than two such children, the income benefits payable for the benefit of all children shall be divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(3) In addition to the benefits theretofore paid or due, two (2) years' indemnity benefit in one lump sum shall be payable to a surviving spouse upon remarriage.

(4) To the children, if there is no surviving spouse, fifty percent (50%) of the average weekly wages the deceased was earning for one child, and twenty percent (20%) of such wage for each additional child, divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(5) The income benefits payable for the benefit of any child under this section shall cease:

a. when the child dies, marries, or reaches the age of eighteen (18),

b. when the child over eighteen (18) years of age ceases to be physically or mentally incapable of self-support,

c. when the actually dependent child ceases to be actually dependent, or

d. when the child has been enrolled as a full-time student in any accredited educational institution or has been receiving education by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, and the child ceases to be so enrolled or educated or reaches twenty-three (23) years of age. A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching eighteen (18) years of age, continue to qualify if the child satisfies the tests of being physically or mentally incapable of self-support, actually dependent, or enrolled in an accredited educational institution or being educated by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution.

(6) To each parent, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(7) To the brothers, sisters, grandparents and grandchildren, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning to each such dependent. If there should be more than one of such dependents, the total income benefits payable for the benefit of such dependents shall be divided to share and share alike subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(8) The income benefits of each beneficiary under divisions (6) and (7) above shall be paid until the beneficiary, if a parent or grandparent, dies, marries or ceases to be actually dependent, or, if a brother, sister or grandchild, dies, marries or reaches the age of eighteen (18), is over the

age of eighteen (18) and ceases to be physically or mentally incapable of self-support or ceases to be actually dependent.

(9) A person ceases to be actually dependent when the person's income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time the original determination of actual dependency was made, it would not have supported a finding of dependency. If the present annual income of an actually dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after the time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this paragraph and paragraph (1) of Section 3.1 of this title.

(b) Change in dependents. Upon the cessation of income benefits under this section to or for the benefit of any person, the income benefits payable to the remaining persons who continue to be entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(c) Maximum income benefits for death. For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state. If the average weekly wages of the employee are equal to or greater than the average weekly wage of the state, then the aggregate weekly income benefits payable to all beneficiaries under this section shall not exceed the average weekly wage of the state. If the average weekly wages of the employee are less than the average weekly wage of the state, the aggregate weekly income benefits payable to all beneficiaries under this section shall not exceed one hundred percent (100%) of the average weekly wages of the employee.

(d) Maximum total payment. The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed one hundred percent (100%) of the average weekly wages the deceased was earning, subject to the maximum limits in subparagraph (c) of this paragraph. The maximum aggregate limitation shall not apply in case of payment of two (2) years' income benefits to the surviving spouse upon remarriage, as provided under division (3) of subparagraph (a) of this paragraph, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subparagraph (b) of this paragraph. The weekly income benefits as recalculated to the remaining beneficiaries shall not exceed the weekly benefit that was or would have been payable for total permanent disability to the deceased. The classes of beneficiaries specified in divisions (1), (2) and (4) of subparagraph (a) of this paragraph shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subparagraph should prevent payments to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in division (7) of subparagraph (a) of this paragraph in a separate class.

9. Where some pecuniary loss may be shown by heirs-at-law of the deceased, as defined by the descent and distribution statutes of Oklahoma, who are otherwise not entitled to receive benefits under other provisions of this section, such heirs-at-law shall receive compensation for their pecuniary loss not to exceed an aggregate of Five Thousand Dollars ($5,000.00).

10. For deaths occurring before November 1, 2005, in the event that no benefits under other provisions of this section are paid to the dependents or the heirs-at-law of the deceased, an amount not to exceed Five Thousand Dollars ($5,000.00) shall be paid for funeral expenses. For deaths occurring on or after November 1, 2005, in the event that no benefits under other provisions of this section are paid to the dependents or the heirs-at-law of the deceased, an amount not to exceed Eight Thousand Dollars ($8,000.00) shall be paid for funeral expenses.

11. (a) For deaths occurring before January 1, 1995, if there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of Ten Thousand Dollars ($10,000.00) to the spouse and Two Thousand Five Hundred Dollars ($2,500.00) to each surviving child not to exceed two children. For deaths occurring after December 31, 1994, if there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of Twenty Thousand Dollars ($20,000.00) to the spouse and Five Thousand Dollars ($5,000.00) to each surviving child not to exceed two children. For deaths occurring on or after November 1, 2005, if there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of One Hundred Thousand Dollars ($100,000.00) to the spouse and Twenty-five Thousand Dollars ($25,000.00) to each surviving child not to exceed two children. In addition, the survivors shall be entitled to receive funeral benefits in an amount not to exceed Ten Thousand Dollars ($10,000.00).

(b) For deaths occurring before November 1, 2005, if there is no surviving spouse but there are surviving children entitled to receive death benefits herein, such surviving children shall be entitled to a lump-sum payment of Ten Thousand Dollars ($10,000.00) to be divided among all the children to share and share alike. For deaths occurring on or after November 1, 2005, if there is no surviving spouse but there are surviving children entitled to receive death benefits herein, each surviving child shall be entitled to a lump-sum payment of Twenty-five Thousand Dollars ($25,000.00), provided the total amount of lump-sum payments shall not exceed One Hundred Fifty Thousand Dollars ($150,000.00), to be divided among all the children to share and share alike. The survivors shall also be entitled to receive funeral benefits in an amount not to exceed Ten Thousand Dollars ($10,000.00).

(c) Any claim under this paragraph shall be substantiated by the filing of a properly executed and authenticated proof of loss, which form shall be prescribed by the Administrator, and payment of such sum shall be made within fifteen (15) days after adjudication of entitlement by the Court. Such sum shall not be subject to any award of attorney fees in uncontested cases, except the Court shall appoint a guardian ad litem to represent known and unknown minor children and said guardian ad litem shall be paid a reasonable fee for the services.

Provided, that all judgments rendered awarding lump-sum death benefits, except lump-sum attorney fee awards, may, at the discretion of the Court, provide that said benefits be paid in trust to an interest-bearing account in a federally insured banking institution in the county wherein the judgment was rendered. The banking institution may make appropriate charges to the beneficiary for costs of trust management. These charges shall be fixed by agreement of such institution and the judge rendering the judgment. The judgment awarding lump-sum death benefits shall contain instructions for regularly scheduled disbursements to be fixed by the Court which may be modified by the Court upon a proper showing of change of circumstance. The banking institution shall issue a numbered receipt to the person paying the benefits into trust and deliver a copy of the receipt to the Administrator. Each banking institution receiving trust funds for deposit shall receive a schedule of disbursements and shall monthly pay said disbursements to the beneficiary as ordered by the Court. An annual accounting of all such trust funds received and deposited shall be rendered by each banking institution to the Court granting the judgment.

12. No payments on any permanent impairment order shall start until payments on any pre-existing permanent impairment orders have been completed.

13. (a) Any employee convicted of a misdemeanor or felony and sentenced to a term of incarceration of at least ninety (90) days in this state or in any other jurisdiction shall have all benefits for temporary total disability awarded by the Workers' Compensation Court forfeited by order of the Court on motion of the employer or the employer's insurer after confirmation of the employee's incarceration. The Court also may order the forfeiture of such benefits on its own motion upon receipt of notice from the Director of the Department of Corrections that the person awarded the benefits is incarcerated as an inmate in a facility operated by or under contract with the Department. The provisions of this subparagraph shall not apply to any benefits awarded to an inmate for compensable injuries sustained by the inmate while in the employ of a private for-profit

employer or while employed in a private prison industries, involving a for-profit employer, which deal in interstate commerce or which sell products or services to the federal government.

(b) Any employee convicted of a misdemeanor or felony and sentenced to a term of incarceration of at least ninety (90) days in this state shall have all benefits for permanent total disability or temporary partial disability awarded by the Workers' Compensation Court and paid during the period of incarceration deposited to the credit of an account established pursuant to Section 549 of Title 57 of the Oklahoma Statutes for distribution in full to the Department of Corrections for costs of incarceration. The State Board of Corrections shall have the power to collect workers' compensation benefits on behalf of the prisoner as provided in this subparagraph and to distribute the benefits as provided by law.

SECTION 22.1

TEMPORARY DISABILITY BENEFITS - REPORT OF CHANGE IN MATERIAL FACT, AMOUNT OF INCOME OR EMPLOYMENT STATUS

A. Any person receiving temporary disability benefits from an employer or the employer's insurance carrier shall promptly report in writing to the employer or insurance carrier any change in a material fact or the amount of income he is receiving or any change in his employment status, occurring during the period of receipt of such benefits.

B. The Workers' Compensation Court shall include a statement on forms for notices and instructions to employers and employees informing employees that they must promptly comply with the provisions of this section.

SECTION 24.1

EMPLOYER'S RECORD OF INJURIES - REPORT TO COURT - PENALTY FOR NEGLECT

A. Every employer shall keep a record of injuries, which result in the loss of time beyond the shift or which require medical attention away from the work site, fatal or otherwise, received by his employees in the course of their employment.

B. Within ten (10) days or a reasonable time thereafter, after the occurrence of such injury a report thereof shall be made in writing by the employer to the Court and to the employer's workers' compensation insurance carrier, if any, upon blanks to be procured from the Court for that purpose. Such reports shall state the name and nature of the business of the employer, the location of the employer's establishment or place of work, the name, address and occupation of the injured employee, the time, nature, and cause of the injury and such other information as may be required by the Administrator. The report, known as the Employer's First Notice of Injury, shall be kept confidential and shall not be open to public inspection; provided, such reports shall be made available immediately upon request by the injured employee named in the report, the injured employee's legal representative, the employer, the employer's legal representative or any prosecutorial authority.

C. Any employer who refuses or neglects to make a report as required by this section shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars ($1,000.00).

SECTION 24.2

NOTICE OF INJURY TO EMPLOYER

A. Unless an employee or former employee gives oral or written notice to the employer or former employer within thirty (30) days of the date an injury occurs or the employee receives medical attention from a licensed physician during the thirty-day period from the date an injury occurred, the rebuttable presumption shall be that the injury was not work related. Such presumption must be overcome by a preponderance of the evidence. For an occupational disease or cumulative trauma, notice shall be given to the employer within the statutory period for occupational disease set out in Section 43 of this title provided, there shall be a rebuttable presumption that injury from occupational disease or injury caused by cumulative trauma does not arise out of and in the course of employment unless oral or written notice is given by the employee to the employer within ninety (90) days of the employee's separation from employment. Such presumption must be overcome by a preponderance of the evidence.

B. If the employer has notice of the injury and the injury is not disputed and weekly temporary total disability benefit payments are not commenced within twenty (20) days or if any subsequent installment of temporary total disability benefits is not made within ten (10) days after it becomes due, the insurer of the employer shall pay to the employee a penalty of fifteen percent (15%) of the unpaid or delayed weekly benefits. This penalty may be imposed by the Court for good cause shown on a case by case basis.

C. The Administrator, on the basis of information collected, may ask the Court to impose the penalty provided in subsection B of this section.

D. Any penalty imposed pursuant to subsections B or C of this section shall not be reported or used for rate-making purposes.

SECTION 24.3
ELECTION TO MAKE ADVANCE PAYMENTS OF TEMPORARY TOTAL DISABILITY BENEFITS

A. After notice of an injury, any insured employer may, at its own option, commence payment of temporary total disability benefits to the injured employee. Such payments shall be in the amount provided by the Workers' Compensation Act for temporary total disability benefits and shall not exceed four (4) weeks in duration. Any employer electing to make such advance temporary total disability benefit payments shall immediately notify its insurance carrier in writing of the date of commencement and the amount of such payments. Such notice shall include an authorization signed by the injured employee, or if the injured employee is incapacitated, the person receiving payments, and shall authorize the insurance carrier to reimburse the employer for such payments.

B. No advance payments of temporary total disability benefits under this section shall be made to any person who is excluded from the definition of "employee" as provided by paragraph 4 of Section 3 of Title 85 of the Oklahoma Statutes, whether or not such person has elected coverage under the employer's policy of insurance.

C. Within thirty (30) days of the last advance payment of temporary total disability benefits, the insurance carrier shall reimburse the employer for all payments so made and shall charge such payments to the employer's loss experience in the same manner as other indemnity payments provided by the Workers' Compensation Act.

D. Payments made under this section shall not constitute admission by the employer or insurance carrier as to liability, compensation rate or any other material fact.

SECTION 25
MEDICAL EXAMINATIONS AFTER INJURY - EFFECT OF REFUSAL - REPORTS OF SERVICES OR EXAMINATIONS

An employee claiming or entitled to compensation under the Workers' Compensation Act, shall, if ordered by the Court, submit himself for medical examination. The employee shall be entitled to have a physician or physicians of his own selection to be paid by him present to participate in such examination. If an employee refuses to submit himself to examination, his right to prosecute any proceeding under the Workers' Compensation Act shall be suspended, and no compensation shall be payable for the period of such refusal. Provided, however, that in any case where such injured employee is either rendered professional services or examined by a physician retained by his employer, or by his employer's insurance carrier, or both, and a report pertaining thereto is furnished by such physician to either such employer, or insurance carrier, or to an attorney representing either or both of them, a true copy of such reports shall be furnished by such recipient to either the injured employee or to his attorney of record.

SECTION 26
NOTICE OF INJURY - FORMS - CLAIMS FOR COMPENSATION - COMPROMISE SETTLEMENT - POWERS AND DUTIES OF COURT - NOTICE OF SETTLEMENT

A. The Administrator shall provide printed notice forms to be used by the injured employee. Notice of injury filed by the employee with the Administrator shall be verified subject to the laws of perjury of this state and shall be styled: In re: Claim of the _____ (the name of the employee) and shall include in addition to any other requirements the following information:

1. The name and social security number of the employee;

2. The name of the employer;

3. The judicial district of the county of residence of the employee at the time of the injury;

4. The address of the principal place of business of the employer;

5. The judicial district of the county where the injury occurred; and

6. The judicial district of the county where the injured employee wants the claim docketed.

B. Any time after the expiration of the first three (3) days of disability on the part of the injured employee, a claim for compensation may be presented to the Administrator. If the employer and the injured employee shall reach a final agreement as to the facts with relation to an injury, and the resulting disability for which compensation is claimed under the Workers' Compensation Act, a memorandum of such agreement, in form as prescribed by the Administrator, signed by both the employer and employee shall be filed by the employer with the Administrator. In cases in which the claimant is not represented by legal counsel, the claimant and the employer may reach a compromise settlement of all issues. The settlement must be approved by the Administrator or a judge of the Court after the filing of an Employer's First Notice of Injury and may be paid in a lump sum. There shall be no requirement for the filing of an Employee's First Notice of Accidental Injury and Claim for Compensation to effect such settlement. The Court shall promulgate rules to allow the creation of a file, the making of a record before a reporter of the Workers' Compensation Court, and the approval of the settlement. This procedure shall be known as a "compromise settlement". Compensation received by a claimant in a compromise settlement as defined by this subsection or in a settlement based upon a dismissal of a claim with prejudice shall not be considered to be an award of permanent partial disability. In the absence of fraud this agreement shall be deemed binding upon the parties thereto. The Court shall have full power and authority to determine all questions in relation to payment of claims for compensation under the provisions of the Workers' Compensation Act. The Court shall make, or cause to be made, such investigation as it deems necessary, and upon application of either party shall order a hearing, and as soon as practicable, after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award determining such claim for compensation, and file the same in the office of the Administrator, together with the statement of its conclusion of fact and rulings of law. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The decision of the Court shall be final as to all questions of fact, and except as provided in Section 3.6 of this title, as to all questions of law.

C. A good faith effort shall be made on the part of any insurance carrier, CompSource Oklahoma, or group self-insured plan to notify an insured employer of the possibility of, and/or terms of, any settlement of a workers' compensation case pursuant to this section. Written comments or objections to settlements shall be filed with the Workers' Compensation Court and periodically shared with the management of the applicable insurer. A written notice shall be made to all policyholders of their right to a good faith effort by their insurer to notify them of any proposed settlement, if the policyholder so chooses.

SECTION 27.1
CUMULATIVE MEDICAL TESTIMONY - MEDICAL EXAMINATION

Neither the claimant nor the respondent in hearings before the Court, shall be permitted to introduce the testimony of more than two physicians where the evidence of any additional physician would be cumulative testimony; provided, however, that the Court, on its own motion, may order that any claimant appearing before it be examined by other physicians.

SECTION 28
CHANGE OF CONDITION - REVIEW OF AWARD BY COURT

Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the Court may at any time review any award, and, on such review, may make an award ending, diminishing or increasing the compensation previously awarded, but only as to those body parts adjudicated by the previous award or as a result of a consequential injury, subject to the maximum or minimum provided in

the Workers' Compensation Act, and shall state its conclusions of fact and rulings of law, and the Administrator shall immediately send to the parties a copy of the award. No such review shall effect such award as regards any money already paid. In a change in condition for the better changing a permanent total disability to a permanent partial disability, the weeks paid on the permanent total disability award shall not be deducted from a subsequent permanent partial disability award; however, permanent partial disability awards together with temporary compensation shall not exceed five hundred (500) weeks.

SECTION 30

COSTS AND PENALTIES - CLAIMS FOR SERVICES OR SUPPLIES - CLAIMS FOR LEGAL SERVICES

A. 1. If the Workers' Compensation Court before which any proceedings for compensation or concerning an award of compensation have been brought, under the Workers' Compensation Act, determines that such proceedings have not been brought on a reasonable ground, or that denial of benefits has not been based on a reasonable ground, the Court shall assess the total cost of the proceedings on the party, who has brought them or the party who has unreasonably denied payment of benefits.

2. In the event a respondent fails to pay travel expenses as required by an order of the Court within twenty-five (25) business days of such order, the Court shall assess a Five Hundred Dollar ($500.00) penalty against the respondent and payable to the claimant.

B. Claims for services or treatment rendered or supplies furnished pursuant to Section 14 of this title shall not be enforceable unless approved by the Court. If approved, such claim shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the Court.

C. A claim for legal services shall be determined by the Court pursuant to the provisions of this subsection.

1. A claim for legal services in contested temporary disability cases shall not exceed ten percent (10%) of the amount of the award for temporary disability. Legal service fees paid in uncontested cases for temporary total disability shall not exceed ten percent (10%) as ordered by the Court.

2. A claim for legal services shall not exceed twenty percent (20%) of the amount of the award for permanent disability or death benefits.

D. Claims for legal services for temporary disability awards shall be paid periodically. Claims for legal fees for permanent total disability awards shall be paid periodically at the rate of twenty percent (20%) of each weekly check to the claimant until the attorney fee is satisfied, based upon a maximum of four hundred (400) weeks of compensation. The right to any such attorney fee shall be vested at the time the award therefor becomes final. Claims for legal services for permanent partial disability awards may be paid in a lump sum the same to be deducted from the end of the award. Claims for legal services for death awards may be paid in a lump sum which shall be deducted from the periodic compensation payments at a rate of ten percent (10%) per payment until the attorney fee is satisfied.

E. In any claim in which the respondent has admitted compensability of an accidental injury within twenty (20) days of the filing of an Employee's First Notice of Accidental Injury and Claim for Compensation, has not disputed medical treatment, and has made a settlement offer in writing within fifteen (15) days after the claimant reaches maximum medical improvement, the attorney fee shall be limited to thirty-five percent (35%) of the amount of any award or settlement of permanent partial disability which is greater than the amount of the offer. In addition, an attorney fee shall be awarded for other contested benefits obtained on behalf of the claimant at any time during the pendency of the claim and shall be based upon a reasonable hourly rate. In no event shall the total attorney fee be in excess of twenty percent (20%) of the total permanent partial disability award or settlement. All attorney fees shall be deducted from the award or settlement to the claimant.

SECTION 41
AWARD FOR PERMANENT PARTIAL AND PERMANENT TOTAL DISABILITY - AMOUNT - ENFORCEMENT - LUMP-SUM PAYMENT - INSTALLMENTS - DEATH OF CLAIMANT - HEALING PERIOD - SECURITY DEPOSITS - FORM OF PAYMENT - FAILURE TO PAY

A. Awards for permanent partial disability under Section 22 of this title shall be made for the total number of weeks of compensation which the Court shall find the claimant will be entitled to receive, less any sums previously paid which the Court may find to be a proper credit thereon. When the award becomes final, the whole sum or any unpaid portion thereof shall operate as a final adjudicated obligation and payment thereof may be enforced by the claimant or in case of his death, by the surviving beneficiary entitled to the proceeds as provided in Section 48 of this title. All awards shall be paid by periodic installments as determined by the Court. Whenever an injured person receives an award for permanent partial disability, permanent total disability or death benefits, the injured employee or claimant, for good cause shown, may have the award commuted to a lump-sum payment by permission of the Court. This authorization for commutation shall not be applicable to attorney fees in permanent total disability cases. The lump-sum payment shall not exceed Four Thousand Dollars ($4,000.00) or twenty-five percent (25%) of the total award, whichever is the larger sum. Attorney fees shall be based upon not more than a five-hundred-week award and, with respect to attorney fees in a permanent total disability case, shall be paid periodically. Such commutation shall be in addition to any commutation to a lump-sum payment for legal services. The balance of the total award shall be paid in periodic installments. In case of the death of a claimant due to causes other than his accidental personal injury or occupational disease at any time before satisfaction or payment of the total award is made, the award shall not abate, but shall be revived in favor of the persons determined by the Court to be entitled thereto. In proceedings to enforce claims for compensation during a period of healing or temporary total disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically, in accordance with the method of payment of the wages of the employee at the time of his injury, and shall be so provided for in any award made.

B. Awards for permanent total disability shall be made by the Court under Section 22 of this title. The Court shall make a determination that the claimant will be entitled to receive the weekly income benefits provided in this title as long as his permanent total disability continues to exist. When an award for total permanent disability becomes final, the accrued portion thereof shall operate as a final adjudicated obligation and payment thereof may be enforced by the claimant. In proceedings to enforce claims for total permanent disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically and shall be so provided in any award made thereon. Total permanent disability awards shall not be commuted to a lump-sum payment.

C. All payments shall be made on any award in the manner and form prescribed by the Court not to exceed the weekly rate of compensation specified in Section 22 of this title, and employers and insurance carriers shall, for such purposes, be permitted, or when necessary to protect the interests of the beneficiary, may be required to make deposits with the Administrator to secure the prompt and convenient payment of awards made. Provided that, all weekly or periodic payments shall be made through the use of United States legal tender, negotiable instruments payable on demand or negotiable drafts when such payment does not exceed One Thousand Dollars ($1,000.00). Failure, for ten (10) days to pay any final award or any portion thereof, as ordered shall immediately entitle the beneficiary to an order finding the respondent and/or insurance carrier to be in default and all unpaid portions, including future periodic installments unpaid, shall immediately become due and may be immediately enforced as provided by Section 42 of this title.

An award for disability may be made after the death of the injured employee, when death results from causes other than the injury. If an employee dies as a result of a compensable injury or an occupational disease, any unaccrued portions of an award or order shall abate.

SECTION 41.1
DEDUCTIONS FROM PERMANENT OR PARTIAL PERMANENT AWARDS - CREDIT FOR OVERPAYMENT

A. In the event salary or any other remuneration is paid in lieu of temporary total compensation during the period of temporary total

disability or for any other period of time, no respondent or insurance carrier shall be allowed to deduct from the amount of the award for permanent or partial permanent disability any amounts paid for temporary total disability, nor shall he be given credit for such additional payments on future temporary total disability, permanent partial disability, disfigurement, or any other compensation provided by the workers' compensation law.

B. Notwithstanding the provisions of subsection A of this section, a qualified individual self-insured employer that pays temporary total disability benefits at a higher weekly rate than required by statute, without diminishing the employee's accrued leave on such payments, shall be given credit for such overpayment against any permanent partial disability owed, after payment of attorney fees and taxes. This provision shall not apply where salary continuation was made by the self-insured employer pursuant to an applicable collective bargaining agreement.

SECTION 42

FAILURE TO PAY COMPENSATION - JUDGMENT AND EXECUTION - INTEREST - REVOCATION OR SUSPENSION OF INSURER'S LICENSE

A. If payment of compensation or an installment payment of compensation due under the terms of an award, except in the case of an appeal of an award or an award from the Multiple Injury Trust Fund, is not made within ten (10) days after the same is due by the employer or insurance carrier liable therefor, the Court may order a certified copy of the award to be filed in the office of the court clerk of any county, which award whether accumulative or lump sum shall have the same force and be subject to the same law as judgments of the district court. Any compensation awarded and all payments thereof directed to be made by order of the Court, except in the case of an appeal of an award or an award of compensation from the Multiple Injury Trust Fund, shall bear interest at the rate of eighteen percent (18%) per year from the date ordered paid by the Court until the date of satisfaction. On or after November 1, 2001, compensation ordered to be paid from the Multiple Injury Trust Fund shall bear simple interest only at the percentage rate applicable to judgments in civil cases pursuant to Section 727 of Title 12 of the Oklahoma Statutes from the date of the award. Any award from the Multiple Injury Trust Fund prior to November 4, 1994, shall bear interest at the percentage rate applicable to judgments in civil cases pursuant to Section 727 of Title 12 of the Oklahoma Statutes. Upon the filing of the certified copy of the Court's award a writ of execution shall issue and process shall be executed and the cost thereof taxed, as in the case of writs of execution, on judgments of courts of record, as provided by Title 12 of the Oklahoma Statutes; provided, however, the provisions of this section relating to execution and process for the enforcement of awards shall be and are cumulative to other provisions now existing or which may hereafter be adopted relating to liens or enforcement of awards or claims for compensation.

B. If any insurance carrier intentionally, knowingly, or willfully violates any of the provisions of the Workers' Compensation Act or any published rules or regulations promulgated thereunder, the Insurance Commissioner, on the request of a judge of the Court or the Administrator, shall suspend or revoke the license or authority of such insurance carrier to do a compensation business in this state.

SECTION 43

LIMITATION OF ACTIONS - DISMISSAL - REOPENING CASES - POSTING NOTICE OF COVERAGE

A. The right to claim compensation under the Workers' Compensation Act shall be forever barred unless, within two (2) years after the date of accidental injury or death, a claim for compensation is filed with the Workers' Compensation Court. Provided however, a claim may be filed within two (2) years of the last medical treatment which was authorized by the employer or the insurance carrier or payment of any compensation or remuneration paid in lieu of compensation. Provided further however, with respect to disease or injury caused by repeated trauma causally connected with employment, a claim may be filed within two (2) years of the date of last trauma or hazardous exposure. Provided, further however, in the case of asbestosis, silicosis or exposure to nuclear radiation causally connected with employment, a claim may be filed within two (2) years of the date of last hazardous exposure or within two (2) years from the date said condition first becomes manifest by a symptom or condition from which one learned in medicine could, with reasonable accuracy, diagnose such

specific condition, whichever last occurs. The filing of any form or report by the employer or insurance carrier shall not toll the above limitations. Post-termination injury claims shall be filed within six (6) months of termination of employment, provided that nothing herein shall extend any limitation period set forth in this section.

B. When a claim for compensation has been filed with the Administrator as herein provided, unless the claimant shall in good faith request a hearing and final determination thereon within three (3) years from the date of filing thereof or within three (3) years from the date of last payment of compensation or wages in lieu thereof, same shall be barred as the basis of any claim for compensation under the Workers' Compensation Act and shall be dismissed by the Court for want of prosecution, which action shall operate as a final adjudication of the right to claim compensation thereunder. If represented by counsel, the claimant may, upon the payment of the Court's filing fee, dismiss any claim brought by the claimant at any time before final submission of the case to the Court for decision. Any claimant not represented by counsel may, upon the payment of the Court's filing fee and with an order of the Court, dismiss any claim brought by the claimant at any time before final submission of the case to the Court for decision. Such dismissal shall be without prejudice unless the words "with prejudice" are included in the order. If any claim that is filed within the statutory time permitted by this section is dismissed without prejudice, a new claim may be filed within one (1) year after the entry of the order dismissing the first claim even if the statutory time for filing has expired.

C. The jurisdiction of the Court to reopen any cause upon an application based upon a change in condition for the worse shall extend for three (3) years from the date of the last order, and unless filed within said period of time, shall be forever barred. An order denying an application to reopen a claim shall not extend the period of the time set out herein for reopening the case.

D. Each employer shall post a notice advising employees that they are covered by the Workers' Compensation Act and that workers' compensation counselor services are available at the Workers' Compensation Court. The form of the notice shall be prescribed by the rules of the Court. No other notice to the employee shall be required other than said poster required by this section; provided that nothing in this subsection shall be construed to toll the Statute of Limitations provided above.

SECTION 44
CLAIMS AGAINST THIRD PERSONS

(a) If a worker entitled to compensation under the Workers' Compensation Act is injured or killed by the negligence or wrong of another not in the same employ, such injured worker shall, before any suit or claim under the Workers' Compensation Act, elect whether to take compensation under the Workers' Compensation Act, or to pursue his remedy against such other. Such election shall be evidenced in such manner as the Administrator may by rule or regulation prescribe. If he elects to take compensation under the Workers' Compensation Act, the cause of action against such other shall be assigned to the insurance carrier liable for the payment of such compensation, and if he elects to proceed against such other person or insurance carrier, as the case may be, the employer's insurance carrier shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by the Workers' Compensation Act for such case. The compromise of any such cause of action by the worker at any amount less than the compensation provided for by the Workers' Compensation Act shall be made only with the written approval of the Court. Whenever recovery against such other person is effected without compromise settlement by the employee or his representatives, the employer or insurance company having paid compensation under the Workers' Compensation Act shall be entitled to reimbursement as hereinafter set forth and shall pay from its share of said reimbursement a proportionate share of the expenses, including attorneys fees, incurred in effecting said recovery to be determined by the ratio that the amount of compensation paid by the employer bears to the amount of the recovery effected by the employee. After the expenses and attorneys fees have been paid, the balance of the recovery shall be apportioned between the employer or insurance company having paid the compensation and the employee or his representatives in the same ratio that the amount of compensation paid by the employer bears to the total amount recovered; provided, however, the balance of the recovery may be divided between the employer or insurance company having paid

compensation and the employee or his representatives as they may agree.

In the event that recovery is effected by compromise settlement, then in that event the expenses, attorneys fees and the balance of the recovery may be divided between the employer or insurance company having paid compensation and the employee or his representatives as they may agree. Provided, that in the event they are unable to agree, then the same shall be apportioned by the district court having jurisdiction of the employee's action against such other person, in such manner as is just and reasonable.

(b) Notwithstanding subsection (d) of this section, the employer or his insurance carrier shall not have the right of subrogation to recover money paid by the employer or his insurance carrier for death claims or death benefits under the Workers' Compensation Act from third persons, with all common law rights against other than the employer and his employees preserved and to be in those persons who would have had such rights had there been no death claim or death benefits under the Workers' Compensation Act.

(c) The employer or his insurance carrier shall have the right of subrogation to recover money paid by the employer or his insurance carrier for the expenses of the last illness or accident under the Workers' Compensation Act from third persons, with all common law rights against other than the employer and his employees preserved and to be in those persons who would have had such rights had there been no benefits under the Workers' Compensation Act.

(d) An employer shall have a cause of action against a third party whose wrongful or negligent conduct causes the death of an employee entitled to compensation under this title to recover any money paid for death benefits on behalf of the employee. Nothing contained in this section shall allow an employer or insurance carrier for an employer to seek an interest in either the death benefits received by the employee or the employee's beneficiary or in a life insurance policy procured by the employee.

SECTION 45
BENEFITS OR SAVINGS CONSIDERED

A. No benefits, saving or insurance of the injured employee, independent of the provisions of this act shall be considered in determining the compensation or benefit to be paid under this act.

B. No employee may receive temporary total disability benefits covering the same period of time as unemployment compensation benefits received by the employee as provided by the Oklahoma Employment Security Commission.

SECTION 46
EMPLOYEE'S AGREEMENTS TO PAY PREMIUMS INVALID - PENALTY

No agreement by any employee to pay any portion of the premium paid by his employer to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary or any employee entitled to the benefits of this act shall be guilty of a misdemeanor.

SECTION 47
WAIVER OF COMPENSATION INVALID

No agreement by an employee to waive his right to compensation under this act shall be valid.

SECTION 47.1
WAIVER OF FULL COMPENSATION FOR AGGRAVATION OF CERTAIN OCCUPATIONAL DISEASES

Where an applicant for employment, though not actually disabled, is found to be affected by silicosis or asbestosis, he may, subject to the approval of the State Industrial Commission, be permitted to waive in writing full compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. In the event of total disablement as a result of the disease with which the employee was so affected, after such a waiver, compensation shall nevertheless be payable as herein elsewhere provided, but in no case for longer than One hundred (100) weeks or to exceed Two Thousand ($2,000.00) Dollars in the aggregate. A waiver so permitted shall remain effective, for the trade, occupation, process or employment for which executed, notwithstanding a change or changes of employer. The Commission shall make reasonable rules and regulations relative to the

form, execution, filing or registration and public inspection of waivers or records thereof.

SECTION 48

CLAIMS NONASSIGNABLE - EXEMPT FROM ALL PROCESSES - DEATH OF CLAIMANT, TO WHOM COMPENSATION PAID

Claims for compensation or benefits due under the Workers' Compensation Act shall not be assigned, released or commuted except as provided by the Workers' Compensation Act, and shall be exempt from all claims of creditors and from levy, execution or attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees; provided, that if an employee dies as a result of his accidental personal injury or occupational disease, any unaccrued portions of an award or order for compensation benefits shall abate. Nothing in this section shall be construed to prohibit any party from the enforcement of any valid lien for child support or valid income assignment for child support.

The term "dependent", as used in this section, means actually dependent in fact upon the deceased employee, and refers only to a person who received more than half of his support from the employee.

1. An award made to a claimant for permanent partial disability under the provisions of the Workers' Compensation Act shall, in case of the death of the claimant, due to causes other than injury for which the person has been awarded permanent partial compensation, be payable to and for the benefit of the following persons:

(a) If there is a surviving spouse and no child of the deceased under the age of eighteen (18) years, to the surviving spouse.

(b) If there is a surviving child or children of the deceased under the age of eighteen (18) years, or dependent blind or dependent crippled child or children of any age, but no surviving spouse then for the support of each such child, to share and share alike until the full payment of the award.

(c) If there is a surviving spouse, a surviving child or children of the deceased under the age of eighteen (18) years, or a dependent blind or dependent crippled child or children of any age, one-half (½) shall be payable to the surviving spouse and the other half to the surviving child or children.

(d) If there is no surviving spouse or child under the age of eighteen (18), or dependent blind or dependent crippled child of any age, then to the dependent parents to share and share alike, and if there are no dependent parents, then to the dependent brothers and sisters, to share and share alike.

(e) In the event the claimant is survived by none of the above named, then the award for compensation benefits shall abate.

2. If claimant has been adjudged a permanent totally disabled person prior to death, and such death has resulted from causes other than the person's accidental personal injury or occupational disease causing such total permanent disability, the award may be revived and made payable to the following persons:

(a) If there is a surviving spouse, to such surviving spouse, fifty percent (50%) of the average weekly income benefit that was or would have been payable for permanent total disability to the deceased for claims arising after the effective date of this act.

(b) If there is a surviving spouse and dependent children under the age of eighteen (18) years or dependent blind or dependent crippled child of any age, the surviving spouse shall receive the amount set forth in subparagraph (a) of this paragraph and in addition the following amounts shall be paid:

(1) To one dependent child, fifteen percent (15%) of the weekly benefits awarded employee, but in no event more than a maximum of Fifteen Dollars ($15.00) per week.

(2) To two or more dependent children, twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars ($25.00) per week, which shall be divided among the children, to share and share alike.

(c) If there is no surviving spouse, but there is a surviving child under the age of eighteen (18)

years, or a dependent blind or dependent crippled child of any age, the child shall receive twenty-five percent (25%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Twenty-five Dollars ($25.00) per week.

(d) If there is no surviving spouse, but there are two (2) or more surviving children under the age of eighteen (18) years, or dependent blind or dependent crippled children of any age, the children shall receive fifty percent (50%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Fifty Dollars ($50.00) per week, which shall be divided among the children to share and share alike.

(e) The income benefits payable to any spouse under this section shall cease when the spouse dies or remarries.

(f) The income benefits payable for the benefit of any child under this section shall cease when the child dies, marries or reaches the age of eighteen (18) years, or when a child over eighteen (18) years of age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or if enrolled as a full time student in any accredited educational institution, ceases to be so enrolled or reaches the age of twenty-three (23) years. A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching age eighteen (18) years, continue to qualify if the child satisfies the tests of being physically or mentally incapable of self-support, actually dependent or enrolled in an accredited educational institution.

(g) If there is no surviving spouse or children under the age of eighteen (18) years or dependent blind or dependent crippled children of any age, then to the surviving dependent parents of the decedent fifty percent (50%) of the weekly benefits awarded the employee, but in no event more than a maximum of Fifty Dollars ($50.00) per week. If there is only one dependent surviving parent, then the surviving dependent parent shall receive twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars ($25.00) per week. Payments shall continue during the dependent parent's lifetime and shall abate upon the death of the dependent parent or when the dependent parent is no longer dependent.

(h) If there are no surviving dependent persons as set forth herein, the award for compensation benefits shall abate.

(I) The maximum weekly income benefits payable for all persons in case of the employee's death due to causes other than the accidental personal injury or occupational disease shall not exceed seventy-five percent (75%) of the average weekly wage of the employee, subject to the maximum limits of compensation set forth in Section 22 of this title.

SECTION 48.1
CHILD SUPPORT LIENS - INCOME OR WAGE ASSIGNMENTS - VENUE

A. 1. A lien against workers' compensation benefits is authorized for the purpose of enforcing a judgment for child support. Child support liens filed in accordance with Section 135 of Title 43 of the Oklahoma Statutes are specifically authorized and shall be paid in accordance with such statute without any order of the Workers' Compensation Court.

2. Additionally, all income assignments or wage assignments for child support issued pursuant to Section 1170 of Title 12 of the Oklahoma Statutes or Section 240 of Title 56 of the Oklahoma Statutes are specifically authorized and shall be paid in accordance with such statutes without any order of the Workers' Compensation Court.

B. Venue for purposes of subsection B of Section 1171.3 of Title 12 of the Oklahoma Statutes and subsection E of Section 240.2 of Title 56 of the Oklahoma Statutes shall be either the location of the employer's insurance carrier or the employer's place of business within Oklahoma.

SECTION 49
LIENS OF CLAIMS AND INSURANCE PREMIUMS

The right of compensation granted by this Act, and any claim for unpaid compensation insurance premium, shall have the same preference or lien, without limit of amount against the assets of the employer as is now or hereafter may be allowed by law for a claim for unpaid wages for labor.

SECTION 61

WAYS OF SECURING COMPENSATION TO EMPLOYEES

A. An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation with any stock corporation, mutual association, or other concerns authorized to transact the business of workers' compensation insurance in this state, or by exchanging contracts of indemnity or interinsurance, pursuant to reasonable rules prescribed by the Administrator providing for and securing the payment of the compensation provided for in the Workers' Compensation Act. When an insurer issues a policy to provide workers' compensation benefits pursuant to the provisions of the Workers' Compensation Act, the insurer shall file, or cause to be filed, with the Administrator a notice in such form and detail as the Administrator may prescribe by rule. The notice shall contain the name, address, and principal occupation of the employer, the number, effective date, expiration date of the policy, and such other information as may be required by the Administrator. The notice shall be filed by the insurer within thirty (30) days after the effective date of the policy. Any insurer who fails to file the notice required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars ($1,000.00);

2. By obtaining and keeping in force guaranty insurance with any company authorized to do guaranty business in this state. Each company that issues such guaranty insurance shall file a copy of the contract with the Administrator within thirty (30) days after the effective date of the contract. Any company that fails to file a copy of the contract as required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars ($1,000.00);

3. By obtaining and keeping in force a workers' compensation equivalent insurance product approved by the Insurance Commissioner pursuant to Section 65 of this title; or

4. By furnishing satisfactory proof to the Administrator of the employer's financial ability to pay such compensation. The Administrator, pursuant to rules adopted by the Court or the Administrator for an individual self-insured or a group self-insurance association, shall require an employer that has:

a. less than one hundred employees or less than One Million Dollars ($1,000,000.00) in net assets to:

(1) deposit with the Administrator securities, an irrevocable letter of credit or a surety bond payable to the state, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or

(2) provide proof of excess coverage with such terms and conditions as is commensurate with their ability to pay the benefits required by the provisions of the Workers' Compensation Act.

b. one hundred or more employees and One Million Dollars ($1,000,000.00) or more in net assets to:

(1) secure a surety bond payable to the state, or an irrevocable letter of credit, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or

(2) provide proof of excess coverage with such terms and conditions as is commensurate with their ability to pay the benefits required by the provisions of the Workers' Compensation Act.

The Administrator may waive the requirements of this paragraph in an amount which is commensurate with the ability of the individual self-insured or group self-insurance association to pay the benefits required by the provisions of the Workers' Compensation Act. Irrevocable letters of credit required by this paragraph shall contain such terms as may be prescribed by the Administrator and shall be issued for the benefit of the Workers' Compensation Court by a financial

institution whose deposits are insured by the Federal Deposit Insurance Corporation.

B. An employer, upon application to become a member of a group self-insurance association, shall file with the Administrator of the Workers' Compensation Court a notice, in such form as prescribed by the Administrator of the Court, acknowledging that the employer, by entering into a group self-insurance association, accepts joint and several liability. Such notice shall be submitted to the Workers' Compensation Court with the application for membership.

C. An employer who fails to comply with the provisions of this section shall be subject to the penalty provided for in Section 12 of this title.

D. Any employer that knowingly provides false information to the Administrator for purposes of becoming self-insured or a group self-insurance association shall be subject to the perjury laws of this state.

E. The provisions of this title shall not be construed to limit or restrict the ability of political subdivisions of this state or employers subject to the provisions of the Workers' Compensation Act from joining together to form group self-insurance associations pursuant to law or rules promulgated by the Court or the Administrator.

SECTION 61.1

ADMINISTRATOR OF GROUP SELF-INSURANCE ASSOCIATION - PROHIBITED ACTS

No person employed as an administrator of a group self-insurance association shall:

1. Be an attorney-of-record or receive attorney fees, directly or indirectly, for representing the group self-insurance association;

2. Have any financial interest in the company servicing the claims of the group self-insurance association;

3. Be involved as a provider of services to the group self-insurance association; or

4. Be compensated or employed by the claim servicing company of the group self-insurance association.

SECTION 61.2

WORKPLACE SAFETY PLANS - NOTIFICATION OF ADMINISTRATOR

All self-insured employers and group self-insurance association plans shall be required to develop and implement workplace safety plans by January 1, 1996, and shall notify the Administrator of the Workers' Compensation Court, in writing, upon implementation of the plan. All private employers who become self-insured after the effective date of this act *(November 4, 1994)* and group self-insurance association plans approved by the Administrator of the Workers' Compensation Court after the effective date of this act shall implement a workplace safety plan within six (6) months of becoming self-insured and shall notify the Administrator of the Workers' Compensation Court, in writing, upon implementation of the plan.

SECTION 63

FAILURE OF EMPLOYER TO SECURE PAYMENT - POWER OF ADMINISTRATOR

Failure on the part of any employer to secure the payment of compensation provided in the Workers' Compensation Act shall have the effect of enabling the Administrator to proceed on behalf of an injured employee of such employer against the employer as provided in Section 12 and Section 61 of this title.

SECTION 63.1

PENALTY FOR FAILURE TO SECURE WORKERS' COMPENSATION INSURANCE - CEASE AND DESIST ORDERS - ASSESSMENT AND COLLECTION OF PENALTY - WORKERS' COMPENSATION ENFORCEMENT REVOLVING FUND - LIMITATION OF SERVICE CHARGES

A. In addition to any other penalty prescribed by law, any employer who fails to secure compensation required by Section 61 of this title shall be liable for a civil penalty, to be assessed by the Commissioner of Labor or designee, of not more than Two Hundred Fifty Dollars ($250.00) per employee for a first offense, unless the employer secures workers' compensation insurance within thirty (30) days after receiving notice of the violation. If the employer secures workers' compensation insurance within thirty (30)

days after receiving notice of the violation, the employer shall be liable for a civil penalty of not more than Seventy-five Dollars ($75.00) per employee. An employer shall be liable for a civil penalty of not more than One thousand Dollars ($1,000.00) per employee for a second or subsequent offense. Provided, the maximum civil penalty shall not exceed Ten Thousand Dollars ($10,000.00) for all related series of violations. All civil penalties collected shall be deposited in the "Workers' Compensation Enforcement Revolving Fund" created by this section and shall be used to enforce the provisions of the Workers' Compensation Act.

B. After an employer is cited for two offenses of failing to obtain workers' compensation insurance and fails to obtain coverage within thirty (30) days of the second citation, the Commissioner of Labor shall issue cease and desist orders, in accordance with the Department of Labor administrative rules and procedures, against an employer until the violating employer shall obtain workers' compensation insurance for its employees. The Commissioner of Labor shall have the authority to require the cessation of activities of an employer whose employees are not covered by workers' compensation insurance until the violating employer shall obtain workers' compensation insurance for its employees; provided that an employer who has made application for workers' compensation coverage with either the State Insurance Fund or a private insurance carrier, and who, through no fault of the employer, has not received notice that such coverage has commenced, shall not be made to cease operations, as provided for in this section, until determination has been made concerning his application for workers' compensation coverage. Any order to cease and desist issued by the Commissioner may be enforced in district court. The district court may issue the Commissioner an injunction without bond, for the purposes of enforcing this section.

C. The Commissioner of Labor or his designee shall assess and collect any civil penalty incurred under subsection A of this section and, in the commissioner's discretion, may remit, mitigate or negotiate said penalty. In determining the amount of the penalty to be assessed, or the amount agreed upon in any negotiation, consideration shall be given to the appropriateness of such penalty in light of the life of the business of the employer charged, the gravity of the violation, and the extent to which the employer charged has complied with the provisions of Section 61 of this title or has otherwise attempted to remedy the consequences of the said violation. Individual proceedings shall be conducted pursuant to the provisions of Section 63.2 of this title.

D. There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Workers' Compensation Enforcement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies collected by the Department pursuant to the provisions of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. No hospital or health provider shall charge more for a workers' compensation claim than for the same service not involving workers' compensation.

SECTION 63.2
CIVIL FINE - HEARING - APPEAL

A. For the purpose of determining if a civil fine should be assessed, a summary hearing shall be conducted by a hearing officer designated by the Commissioner of Labor. The hearing officer shall determine from all of the evidence submitted by the Department of Labor and the employer a fair and equitable resolution of the violation, taking into consideration the mitigating circumstances as required by Section 20 of this act *(Title 85, § 63.1)*. The hearing officer shall assess, upon the examination of the evidentiary record, a penalty commensurate with the violation so adjudged. Provided, the employer may provide additional mitigating circumstances or evidence to the hearing officer within ten (10) days of the assessment and a reevaluation of the penalty shall be conducted. Unless a formal hearing is requested pursuant to the provisions of subsection B of this section, the penalty shall become final within thirty (30) days of assessment. Upon becoming final, the penalty shall be regarded as any other money judgment and may be pursued for collection as prescribed by law for any other such remedy.

B. An employer may appeal the decision of the hearing officer to the Commissioner of Labor

by filing, within thirty (30) days of the date of assessment, a written request for a formal hearing. The hearing shall be conducted in accordance with the provisions of the Administrative Procedures Act, Sections 301 et seq. of Title 75 of the Oklahoma Statutes. A final order from said hearing may be appealed to the district court in the county in which the business of the employer is located pursuant to the provisions of the Administrative Procedures Act. Subject to approval of the Attorney General, the Commissioner may engage in any proceeding of appeal in district court.

SECTION 63.3

CRIMINAL PENALTIES FOR VIOLATING § 61 OF THIS TITLE

A. Any employer who willfully fails to provide compensation required by Section 61 of Title 85 of the Oklahoma Statutes shall be charged with a misdemeanor and subject to a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment in the county jail for not more than six (6) months, or both such fine and imprisonment.

B. Evidence of two prior penalties assessed by the Department of Labor pursuant to Sections 20 and 21 of this act *(Title 85, §§ 63.1 and 63.2)* in any given three-year period shall constitute a prima facie case of a willful violation.

SECTION 63.4

RULES & REGULATIONS FOR IMPLEMENTING §§ 63.1 AND 63.2 OF THIS TITLE

The Commissioner of Labor shall have the authority to promulgate rules and regulations to implement the provisions of Sections 20 and 21 of this act *(Title 85, §§ 63.1 and 63.2)*.

SECTION 64

POLICIES OF INSURANCE - REQUIREMENTS IN GENERAL

A. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association or other concern authorized to transact workers' compensation insurance in this state shall contain a provision setting forth the right of the Administrator to enforce in the name of the state, for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of the compensation by either the employer or the insurance carrier shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

B. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be on the part of the insurance carrier, that jurisdiction of the employer shall, for the purpose incorporated in this title, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions incorporated in this title.

C. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries sustained by an employee during the life of such policy.

D. 1. Every such policy issued to cover a risk in this state shall include provisions giving the insured employer the option of choosing a deductible amount for medical benefits in amounts ranging from Five Hundred Dollars ($500.00) to Two Thousand Five Hundred Dollars ($2,500.00) in increments of Five Hundred Dollars ($500.00). The policy issued may also include separate provisions giving the insured employer the option of choosing a deductible amount for indemnity benefits in amounts ranging from Five Hundred Dollars ($500.00) to Two Thousand Five Hundred Dollars ($2,500.00) in increments of Five Hundred Dollars ($500.00). The insured employer, if choosing to exercise the option, shall choose only one deductible amount.

2. If an insured employer exercises the option and chooses a medical benefits deductible or indemnity benefits deductible, the insured

employer shall be liable for the amount of the deductible or deductibles for the medical or indemnity benefits paid for each claim of work injury suffered by an injured employee.

3. The Insurance Commissioner in exercising his authority to approve the form of the policy to be issued shall not approve any policy form that permits, directly or indirectly, any part of the deductible to be charged to or passed on to the injured worker or insurer.

4. The insurer shall pay the entire cost of medical bills directly to the provider of the services and then seek reimbursement from the insured employer for the deductible amount. The insurer shall pay the entire cost of the indemnity benefits as if no deductible were in place and then seek reimbursement from the insured employer for the deductible amount.

5. If the insured employer does not reimburse the deductible amount directly to the insurer within sixty (60) days of a written demand therefor, the insurer shall pay the compensable medical claim or indemnity benefit and may seek to recover the full amount of such claim from the insured employer.

6. Claim amounts up to Five Hundred Dollars ($500.00) annually which are paid under the medical benefits deductible or indemnity benefits deductible pursuant to this subsection shall be excluded from the calculation of the insured employer's experience modifier.

7. The provisions of this subsection shall be fully disclosed to the prospective purchaser in writing.

E. Every such policy issued to a sole proprietor, partnership, limited liability company, corporation, or other business entity must disclose to the potential purchaser in writing the option to elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members, or any or all stockholder-employees as employees for the purpose of workers' compensation insurance coverage by endorsing the policy in accordance with Section 3 of this title.

F. Every contract or agreement of an employer the purpose of which is to indemnify the employer from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or the employer's officer, agent or servant shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for in this title.

G. No contract of insurance issued by a stock company or mutual association or other concern against the liability arising under this title shall be canceled within the time limited in such contract for its expiration until at least ten (10) days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the Administrator and also served on the employer. Such notice shall be served on the employer by delivering it to the employer or by sending it by mail, by registered letter, addressed to the employer at the employer's last-known place of residence; provided, that if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. Provided, however, if a contract of insurance has been terminated by an employer insured thereunder who has obtained other compensation insurance, as evidenced by filing in compliance with Section 61 of this title, and no intervening rights of any employee are involved, omission of a predecessor insurer to file notice of time of termination of liability shall not constitute basis for imposition of liability against such predecessor insurer.

SECTION 65
WORKERS' COMPENSATION EQUIVALENT INSURANCE PRODUCTS

A. Notwithstanding any provision of the Oklahoma Statutes to the contrary, an employer may secure workers' compensation to his employees through an approved workers' compensation equivalent insurance product authorized by this section.

B. All workers' compensation equivalent insurance products shall be subject to the approval of the Insurance Commissioner and shall comply with Articles 9 and 36 of Title 36 of the Oklahoma Statutes and this title. No workers' compensation equivalent insurance product shall be approved unless the following requirements are complied with:

1. The product is issued by an insurance carrier admitted to do business in the state that has a surplus in regard to policyholders of at least Fifty Million Dollars ($50,000,000.00);

2. The benefits provided for injured employees under the product at least equal the benefits required by this title;

3. Contributions from employees are prohibited as provided in Section 46 of this title;

4. The contract contains all provisions required of a standard policy of workers' compensation insurance issued in this state, including a workers' compensation benefits policy and an employer liability policy, neither of which policies may be canceled independently of the other. All coverage parts and policy contracts must comply with Title 36 of the Oklahoma Statutes and this title;

5. The company providing a workers' compensation equivalent insurance product is required to file statistical data with a designated statistical agency pursuant to Section 934 of Title 36 of the Oklahoma Statutes;

6. The product complies with such other standards consistent with this section as may be prescribed by rules promulgated by the Insurance Commissioner;

7. The product is a separate policy of insurance from and administered separately from any other insurance offered by the employer and is separate from any employee benefit plan or policy of the employer which employee benefit plan or policy is governed by the provisions of the Employee Retirement Income Security Act, 29 U.S.C., Section 1001 et seq.;

8. The employer certifies in writing to the Workers' Compensation Court that the policy is obtained solely to comply with the workers' compensation laws of Oklahoma; and

9. The product is covered by a guaranty fund which provides payment to the claimant in the full amount of a covered claim for benefits under a workers' compensation insurance coverage.

C. It is the intent of the Legislature that any workers' compensation equivalent insurance product which is approved by the Insurance Commissioner pursuant to this section shall preserve an employer's immunity from civil action in district court resulting from an injury which is compensable under this title.

D. On the annual effective date of the approved workers' compensation equivalent insurance product, the insurer shall submit to the Insurance Commissioner a current Oklahoma Rate Exhibit (Form A-2) and a current Oklahoma/Countrywide 5-year Experience and Expense Exhibit.

E. The Insurance Commissioner shall promulgate such rules as may be necessary to implement the provisions of this section.

SECTION 65.2

ESTOPPEL OF EMPLOYER AND INSURANCE CARRIER

Every employer and every insurance carrier who schedules any employee as a person employed by the employer for the purpose of paying or collecting insurance premiums on a workers' compensation insurance policy or who pays, receives or collects any premiums upon any insurance policy covering the liability of such employer under the workers' compensation law by reason of or upon the basis of the employment of any such employee shall be estopped to deny that such employee was employed by the employer in a hazardous employment subject to and covered by the workers' compensation law if such person receives an accidental personal injury arising out of and in the course of his employment, during the period for which such premium was so received, regardless of the type of business in which the employer was engaged or the type of employment in which the employee was engaged at the time of such injury.

SECTION 65.3

INSURANCE CONTRACT PRESUMED FOR BENEFIT OF THOSE CONSIDERED IN DETERMINING PREMIUM

Every contract of insurance issued by an insurance carrier for the purpose of insuring an employer against liability under the Workers' Compensation Act shall be *conclusively presumed* to be a contract for the benefit of each and every person upon whom insurance premiums are paid,

collected, or whose employment is considered or used in determination of the amount of premium collected upon such policy for the payment of benefits as provided by the Workers' Compensation Act regardless of the type of business in which the employer of such person is engaged or the type of work being performed by the employee at the time of any injury received by such employee arising out of and in the course of his employment, which contract may be enforced by such employee as the beneficiary thereof.

SECTION 66.1
INDIVIDUAL SELF-INSURED GUARANTY FUND BOARD - INDIVIDUAL SELF-INSURED GUARANTY FUND

A. There is hereby created the "Individual Self-Insured Guaranty Fund Board". The Board shall have supervision over the administration and operation of the Individual Self-Insured Guaranty Fund.

B. The Board shall consist of not less than three (3) nor more than nine (9) members. Each member shall be from an employer who has been approved by the Workers' Compensation Court as an own risk carrier or self-insured risk. The Board shall be appointed by the Administrator.

The initial members of the Board shall be appointed to terms of office as follows:

1. One member shall be appointed for one (1) year;

2. One member shall be appointed for two (2) years; and

3. One member shall be appointed for three (3) years.

If more than three members are appointed, the fourth member shall be appointed for four (4) years and each of the others appointed shall be for terms of office in the order of their appointment of one, two, three or four years with the ninth member also serving four (4) years. Thereafter, each person appointed shall serve for four (4) years.

C. The State Treasurer shall establish the Individual Self-Insured Guaranty Fund in the State Treasury.

D. The monies paid into the Fund, together with the interest thereon, shall constitute the Individual Self-Insured's Guaranty Fund.

E. Until the Individual Self-Insured Guaranty Fund contains One Million Dollars ($1,000,000.00), the Oklahoma Tax Commission shall assess and collect from the employers carrying their own risk a tax at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by the employers. The Oklahoma Tax Commission shall forward to the State Treasurer the proceeds of the tax for deposit in the Fund. When the amount in the Fund falls below Seven Hundred Fifty Thousand Dollars ($750,000.00), the tax made pursuant to this section shall be assessed until the Fund contains One Million Dollars ($1,000,000.00). The State Treasurer shall place monies in the Fund in interest-bearing accounts.

F. 1. If an employer, who is currently approved by the Workers' Compensation Court as a self-insured or own risk carrier, is unable to make payment of an award and judgment is rendered against such employer and execution is levied and returned unsatisfied in whole or in part, payments for such liabilities shall be made from the Individual Self-Insured Guaranty Fund.

The Administrator shall proceed to recover such payments from the employer, or the employer's receiver or trustee in bankruptcy, and may commence an action or proceeding or file a claim therefor.

The Attorney General shall appear on behalf of the Administrator in any such action or proceeding. All monies recovered in such action shall be paid into the Fund.

2. Each employer approved as an individual self-insurer or own risk carrier shall pay into the Fund a sum equal to that assessed against such employer as provided for in subsection E of this section. When the award becomes final, the sum shall be payable regardless of whether or not the award made to the claimant is paid.

3. In making and entering awards for compensation for permanent partial disability, the Court shall determine and fix the amounts that shall be paid to the Tax Commission pursuant to the provisions of subsection E of this section. The

amount so determined and fixed shall have the same force and effect as an award of the Court for compensation and all provisions relating to the collection of awards of the Court shall apply to such judgments.

4. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for in this section. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of Title 85 of the Oklahoma Statutes.

The Oklahoma Tax Commission shall on or before the first day of April of each year find and determine the amount of money held as of March 1 of that year by the State Treasurer for the benefit of the Individual Self-Insured Guaranty Fund and shall on or before the first day of October of each year find and determine the amount of money held as of September 1 of that year by the State Treasurer for the benefit of the Individual Self-Insured Guaranty Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the Administrator in writing of its findings.

5. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Individual Self-Insured Guaranty Fund by order of the Administrator, with the approval of the Individual Self-Insured Guaranty Fund Board, may be invested in or loaned on the pledge of any of the securities in which a state bank may invest the moneys deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into said Fund. The State Treasurer shall pay by vouchers drawn on the Individual Self-Insured Guaranty Fund for the making of such investments, when signed by the Administrator and approved by the Individual Self-Insured Guaranty Board, upon delivery of such securities, or evidence of indebtedness to him. The Administrator, upon approval of the Individual Self-Insured Guaranty Board, may sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for deposit in the Fund.

6. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payment of assessments made to the Fund when the Fund has over One Million Dollars ($1,000,000.00) in it. Refunds shall be paid from the Fund.

7. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Individual Self-Insured Guaranty Fund all moneys collected under the provisions of this section. The State Treasurer shall pay out of the Individual Self-Insured Guaranty Fund only upon the order and direction of a court of this state acting under the provisions thereof.

8. Where an award has been made by the Court or a payment in lieu thereof for compensable injury for a permanent partial disability, the employer shall pay to the Tax Commission such sum as is due of which ninety-eight percent (98%) of said sum shall be paid into the Fund and the remaining two percent (2%) thereof shall be paid to the Oklahoma Tax Commission not later than the fifteenth of the month following the close of the calendar quarter in which the award was made.

G. The Board may retain an insurance carrier or approved service organization to process, investigate and pay valid claims. The charge for such service shall be paid from the Fund.

H. The provisions of this section shall not apply to any state entity or any political subdivision of the state.

I. No claim or award shall be allowed against the Fund unless such claim or award is made within (1) one year of the time provided in paragraph 1 of subsection F of this section.

SECTION 66.2
GROUP SELF-INSURANCE ASSOCIATION GUARANTY FUND BOARD - GROUP SELF-INSURANCE ASSOCIATION GUARANTY FUND

A. There is hereby created the "Group Self-Insurance Association Guaranty Fund Board".

The Board shall have supervision over the administration and operation of the Group Self-Insurance Association Guaranty Fund.

B. The Board shall consist of not less than three (3) nor more than nine (9) members. Each member shall be an administrator of a Group Self-Insurance Association which has been approved by the Workers' Compensation Court as an own risk carrier or self-insured risk. The Board shall be appointed by the Administrator. The initial members of the Board shall be appointed to terms of office as follows:

1. One member shall be appointed for one (1) year;

2. One member shall be appointed for two (2) years; and

3. One member shall be appointed for three (3) years.

If more than three members are appointed, the fourth member shall be appointed for four (4) years and each of the others appointed shall be for terms of office in the order of their appointment of one, two, three or four years with the ninth member also serving four (4) years. Thereafter, each person appointed shall serve for four (4) years.

C. The State Treasurer shall establish the Group Self-Insurance Association Guaranty Fund in the State Treasury.

D. The monies paid into the Fund, together with the interest thereon, shall constitute the Group Self-Insurance Association Guaranty Fund.

E. Until the Group Self-Insurance Association Guaranty Fund contains One Million Dollars ($1,000,000.00), the Oklahoma Tax Commission shall assess and collect from each group self-insurance association carrying their own risk, a tax at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by each group self-insurance association. The Oklahoma Tax Commission shall forward to the State Treasurer the proceeds of the tax for deposit in the Fund. When the amount in the Fund falls below Seven Hundred Fifty Thousand Dollars ($750,000.00), the tax made pursuant to this section shall be assessed until the Fund contains One Million Dollars ($1,000,000.00). The State Treasurer shall place monies in the Fund in interest-bearing accounts.

F. 1. If a group self-insurance association, that is currently approved by the Workers' Compensation Court as a self-insured or own risk carrier, is unable to make payment of an award and judgment is rendered against such group self-insurance association and execution is levied and returned unsatisfied in whole or in part, payments for such liabilities shall be made from the Group Self-Insurance Association Guaranty Fund.

The Administrator shall proceed to recover such payments from the group self-insurance association, or the group self-insurance association's receiver or trustee in bankruptcy, and may commence an action or proceeding or file a claim therefor.

The Attorney General shall appear on behalf of the Administrator in any such action or proceeding. All monies recovered in such action shall be paid into the Fund.

2. Each group self-insurance association approved as a self-insurer or own risk carrier shall pay into the Fund a sum equal to that assessed against such group self-insurance association as provided for in subsection E of this section. When the award becomes final, the sum shall be payable regardless of whether or not the award made to the claimant is paid.

3. In making and entering awards for compensation for permanent partial disability, the Court shall determine and fix the amounts that shall be paid to the Tax Commission pursuant to the provision of subsection E of this section. The amount so determined and fixed shall have the same force and effect as an award of the Court for compensation and all provisions relating to the collection of awards of the Court shall apply to such judgments.

4. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for in this section. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by

proceeding in accordance with the provisions of Section 42 of Title 85 of the Oklahoma Statutes.

The Oklahoma Tax Commission shall on or before the first day of April of each year find and determine the amount of money held as of March 1 of that year by the State Treasurer for the benefit of the Group Self-Insurance Association Guaranty Fund and shall on or before the first day of October of each year find and determine the amount of money held as of September 1 of that year by the State Treasurer for the benefit of the Group Self-Insurance Association Guaranty Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the Administrator in writing of its findings.

5. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Group Self-Insurance Association Guaranty Fund by order of the Administrator, with the approval of the Group Self-Insurance Association Guaranty Fund Board, may be invested in or loaned on the pledge of any of the securities in which a state bank may invest the moneys deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into said Fund. The State Treasurer shall pay by vouchers drawn on the Group Self-Insurance Association Guaranty Fund for the making of such investments, when signed by the Administrator and approved by Group Self-Insurance Association Guaranty Board, upon delivery or evidence of indebtedness to him. The Administrator, upon approval of the Group Self-Insurance Association Guaranty Board, may sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for deposit in the Fund.

6. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payment of assessments made to the Fund when the Fund has over One Million Dollars ($1,000,000.00) in it. Refunds shall be paid from the Fund.

7. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Group Self-Insurance Association Guaranty Fund all moneys collected under the provisions of this section. The State Treasurer shall pay out of the Group Self-Insurance Association Guaranty Fund only upon the order and direction of a court of this state acting under the provisions thereof.

8. Where an award has been made by the Court or a payment in lieu thereof for compensable injury for a permanent partial disability, the employer shall pay to the Tax Commission such sum as is due of which ninety-eight percent (98%) of said sum shall be paid into the Fund and the remaining two percent (2%) thereof shall be paid to the Oklahoma Tax Commission not later than the fifteenth of the month following the close of the calendar quarter in which the award was made.

G. The Board may retain an insurance carrier or approved service organization to process, investigate and pay valid claims. The charge for such service shall be paid from the Fund.

H. The provisions of this section shall not apply to any group self-insurance association consisting of state entities or of any political subdivisions of the state.

I. No claim or award shall be allowed against said Fund unless such claim or award is made within one (1) year of the time provided in paragraph 1 of subsection F of this section.

SECTION 67.1
AUDIT OF PAYROLL AND RETURN OF UNEARNED PREMIUM

If any insurance company shall cancel any policy of Workers' Compensation insurance issued by it upon risks within this State, the premium or consideration therefor, or any part thereof having been actually paid, it shall, within one hundred eighty (180) days after the effective date of said cancellation make an audit of the payroll of such risk to determine the portion of said premium or consideration which has been earned and the portion thereof which has not been earned, respectively, and furnish a copy of said audit to the policyholder and return, within a reasonable time after the effective date of such cancellation, the unearned portion of the premium or consideration actually paid, said company retaining only the pro rata part thereof.

SECTION 69.5

PRESIDING JUDGE - POWERS AND DUTIES

The Presiding Judge shall preside at all hearings before the Court en banc and at all conferences at which appeals and other matters are considered; make all procedural rulings for the Court except those to be made in the course of hearings before a single Judge; assign or direct the assignment of cases to the several Judges for hearing at places he shall designate; direct and supervise the work of all employees of the Court; handle, oversee and be responsible for all administrative affairs of the Court, including but not limited to those of personnel, budgetary and financial management; and bear such other responsibilities and duties as may be necessary to operate the Court in an efficient manner. For the period during which he is disqualified, disabled or absent, the Presiding Judge may designate another Judge to act as Presiding Judge in his stead.

SECTION 80

ENFORCEMENTS OF ORDERS - CONTEMPT

A. Failure to attend in obedience to a subpoena issued by the Workers' Compensation Court may be punishable as contempt of the Court. The Court may compel obedience to the subpoena by attachment proceedings as for contempt pursuant to Sections 393 and 396 of Title 12 of the Oklahoma Statutes. Punishment for failure to attend in obedience to a subpoena, except in case of a demand and failure to pay witness fees as provided in Section 81 of this title, shall be limited to a fine not to exceed One Thousand Dollars ($1,000.00) which the Court may order the witness to pay. The fine imposed by the Court shall be paid into the Administrator of Workers' Compensation Revolving Fund created pursuant to Section 95 of this title.

B. In case of disobedience of any person to comply with the order of the Workers' Compensation Court, the judge of the district court of the county in which the person resides, or of the county in which such hearing is being conducted, on application of a judge of the Workers' Compensation Court, shall compel obedience by attachment proceedings as for contempt, pursuant to Sections 393 and 396 of Title 12 of the Oklahoma Statutes.

SECTION 81

WITNESS FEES

Each witness who appears in obedience to a subpoena before the Court to obtain the required information, shall receive for his attendance the fee and mileage provided for witnesses in civil cases.

SECTION 84

JURISDICTION CONTINUING - DETERMINATION AS TO FINAL SETTLEMENT - NOTICE OF SETTLEMENT TO INSURED EMPLOYER

A. The power and jurisdiction of the Court over each case shall be continuing and it may, from time to time, make such modifications or changes with respect to former findings or orders relating thereto if, in its opinion, it may be justified, including the right to require physical examinations as provided for in Section 25 of this title, and subject to the same penalties for refusal; provided, that upon petition filed by the employer or insurance carrier, and the injured employee, or other person entitled to compensation under the Workers' Compensation Act, the Court shall have jurisdiction to consider the proposition of whether or not a final settlement may be had between the parties presenting such petition. The Court is authorized and empowered to have a full hearing on the petition, and to take testimony of physicians and others relating to the permanency or probable permanency of the injury, and to take such other testimony relevant to the subject matter of such petition as the Court may require. The Court shall have authority to consider such petition and to dismiss the same without a hearing if in its judgment the same shall not be set for a hearing; the expenses of such hearing or investigation, including necessary medical examinations, shall be paid by the employer or insurance carrier, and such expenses may be included in the final award.

If the Court decides it is for the best interest of both parties to said petition that a final award be made, a decision shall be rendered accordingly and the Court may make an award that shall be final as to the rights of all parties to said petition and thereafter the Court shall have no jurisdiction over any claim for the injury or any results arising from same. If the Court shall decide the case should not be finally settled at the time of the

hearing, the petition shall be dismissed without prejudice to either party, and the Court shall have the same jurisdiction over the matter as if said petition had not been filed. The same rights of appeal shall exist from the decision rendered under such petition as if provided for appeals in other cases before the Court; provided there shall be no appeal allowed from an order of the Court dismissing such petition as provided in this section.

B. A good faith effort shall be made on the part of any insurance carrier, the State Insurance Fund, or group self-insured plan to notify an insured employer of the possibility of, and/or terms of, any settlement of a workers' compensation case pursuant to this section. Written comments or objections to settlements shall be filed with the Workers' Compensation Court and periodically shared with the management of the applicable insurer. A written notice shall be made to all policyholders of their right to a good faith effort by their insurer to notify them of any proposed settlement, if the policyholder so chooses.

SECTION 85
ANNUAL REPORT OF AWARDS

Annually, on or before the first day of July, commencing with July, 1987, the Administrator shall prepare and submit a report for the prior calendar year to the Governor, the Chief Justice of the Supreme Court, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and each member of the Legislature, which shall include a statement of the number of awards made and the causes of the accidents leading to the injuries for which the awards were made, total work load data of the Court, a detailed report of the work load of each judge of the Court, a detailed statement of the expenses of the office of the Administrator of Workers' Compensation, and the Court, together with any other matter which the Administrator deems proper to report to the Governor, including any recommendations he may desire to make.

SECTION 92
PROHIBITION ON REPRESENTING BOTH INSURANCE CARRIER AND CLAIMANT

It shall be unlawful and a misdemeanor for any person acting as an attorney, adjustor, or representative in any capacity for a respondent or insurance carrier in any workers' compensation case before the Court to thereafter represent the claimant in any such case in any action or proceeding for compensation of such claimant against or from the Multiple Injury Trust Fund.

SECTION 93
COLLECTION AND DEPOSIT OF FEES

A. The following fee shall be collected by the Administrator and taxed as costs to be paid by the party against whom any award becomes final:

A fee of Seventy-five Dollars ($75.00) per case to be deposited as follows:

1. Forty Dollars ($40.00) to the credit of the Administrator of Workers' Compensation Revolving Fund created by Section 95 of this title;

2. Ten Dollars ($10.00) to the credit of the Office of the Attorney General's Workers' Compensation Fraud Unit Revolving Fund created by Section 19.2 of Title 74 of the Oklahoma Statutes; and

3. Twenty-five Dollars ($25.00) to the credit of the Administrator of Workers' Compensation Revolving Fund, created by Section 95 of this title, for purposes of implementing the provisions of this act, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

B. A fee of Seventy-five Dollars ($75.00) per action to reopen any case pursuant to Section 28 of this title shall be collected by the Administrator and taxed as costs to be paid by the party that reopens the case. The fee collected pursuant to this subsection shall be deposited to the credit of the Administrator of the Workers' Compensation Revolving Fund, created by Section 95 of this title, for purposes of implementing the provisions of this act, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

SECTION 93.2
PAYMENT OF CERTAIN ANNUAL APPLICATION FEES

A. All group self-insureds allowed pursuant to the provisions of subsection A of Section 149.1 of Title 85 of the Oklahoma Statutes shall pay an annual application fee of Five Hundred Dollars ($500.00) to the Administrator.

B. All individual own-risk or self-insured risk employers shall pay an annual application fee of Five Hundred Dollars ($500.00) to the Administrator.

C. All court approved servicing companies shall pay an annual application fee of Five Hundred Dollars ($500.00) to the Administrator.

D. All fees collected pursuant to the provisions of this section shall be deposited to the credit of the Administrator of the Workers' Compensation Revolving Fund created by Section 95 of Title 85 of the Oklahoma Statutes.

SECTION 95
COPIES OF DOCUMENTS AND PAPERS - FEES - REVOLVING FUND

Persons requesting and receiving copies of papers and documents on file with the Administrator shall pay a fee to the Administrator of One Dollar ($1.00) for the first page copied and fifty cents ($0.50) for each subsequent page copied by the Administrator. A fee shall be charged for each copy of any document furnished by the Administrator in an amount sufficient to cover the actual costs incurred in printing and producing the document. All fees so collected shall be deposited in the State Treasury in a revolving fund to be designated the "Administrator of Workers' Compensation Revolving Fund". The fund created herein shall be a continuing fund not subject to fiscal year limitations. Monies accruing to the credit of the fund may be expended in the manner prescribed by law in defraying necessary expenses in carrying out the provisions of this act and without legislative appropriation. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims as prescribed by law with the Director of State Finance for approval and payment.

SECTION 101
PENALTIES AND FINES - PAYMENT INTO WORKERS' COMPENSATION REVOLVING FUND

All penalties and fines imposed by the Workers' Compensation Act, upon collection, shall be deposited to the credit of the Administrator of the Workers' Compensation Revolving Fund.

SECTION 103
SECURING INFORMATION

Every employer shall furnish the Administrator, upon request, any information required by him to carry out the provisions of the Workers' Compensation Act.

SECTION 104
EMPLOYER'S RECORDS AND BOOKS - SUBJECT TO INSPECTION - SELF-INCRIMINATING EVIDENCE

All books, records and payrolls of the employers showing or reflecting in any way upon the amount of wage expenditures of such employers shall always be open for inspection by the Administrator or any other authorized auditors, accountants, or inspector for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the purposes and uses of the Administrator in the administration of the Workers' Compensation Act. No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry, by or upon any hearing before the Court, when ordered to do so by the Court, upon the ground that the testimony or payroll or other competent evidence required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath, have, by order of the Court, testified to or produced documentary evidence of; provided however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

SECTION 106
LIMITATIONS OF TIME - EXCEPTIONS

No limitation of time provided in this act shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

SECTION 107
COMMISSIONER OF LABOR TO ASSIST

The Commissioner of Labor shall render to the Administrator any proper aid and assistance by the Department of Labor as in his judgment does not interfere with the proper conduct of such Department.

SECTION 109
APPLICABILITY TO CASES OF DEATH

This Act shall not affect any action pending or cause of action pending or cause of action existing or which has accrued to the dependents or other legal representatives of an injured employee in case death, before the effective date of this Act, results from the injury. The provisions of this Act, however, shall be applicable to all cases of death which occur after the effective date of this Act as a result of any injury.

SECTION 110
EMPLOYER'S INQUIRY INTO EMPLOYEE'S PREVIOUS INJURY CLAIMS

A. Except as otherwise provided by state or federal law and subject to the provisions of this section, an employer may inquire about previous workers' compensation claims paid to an employee while the employee was employed by a previous employer. If the employee fails to answer truthfully about any previous permanent partial disability awards made pursuant to workers' compensation claims, the employee shall be subject to discharge by the employer.

B. 1. All requests made to the Workers' Compensation Court for information on prior workers' compensation claims involving a worker, including written inquiries about prior claims and requests to access a worker's compensation claim file, must be in writing, on a form prescribed by the Administrator, and accompanied by a fee of One Dollar ($1.00) per search request, not to exceed One Dollar ($1.00) per claims record of a particular worker. The fee shall be deposited to the credit of the Administrator of Workers' Compensation Revolving Fund created by Section 95 of this title. The form shall require identification of the person requesting the information, and the person for whom a search is being made if different from the requester. The form must contain an affidavit signed by the requester under penalty of perjury that the information sought is not requested for a purpose in violation of state or federal law. The form must be used by all repositories of archived Workers' Compensation Court claim files. All request forms shall be maintained by the Administrator as a public record, together with a record of a worker's written authorization permitting a search indexed by the worker's social security number as required by Section 3113 of Title 74 of the Oklahoma Statutes. The request forms and authorizations shall be indexed alphabetically by the last name of the worker.

2. This subsection shall not apply:

   a. to requests for claims information made by a public officer or by a public employee in the performance of his or her duties on behalf of a governmental entity or as may be allowed by law,

   b. to requests for claims information made by an insurer, self-insured employer, third-party claims administrator, or a legal representative thereof, when necessary to process or defend a worker's compensation claim,

   c. when a worker or the worker's representative requests review of the worker's claims information,

   d. when the disclosure is made for educational or research purposes and in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim,

   e. to requests for claims information made by a health care or rehabilitation provider or the provider's legal representative when

necessary to process payment of health care or rehabilitation services rendered to a worker, and

f. to requests for claim information made by an employer or personnel service company (including but not limited to an individual or entity) where the worker executes a written authorization permitting the search and designating the employer or personnel service company as the worker's representative for that purpose; however, nothing in this subparagraph shall relieve the employer or personnel service company from complying with the requirements of utilizing the form set forth in paragraph 1 of this subsection.

SECTION 112

ADVISORY COUNCIL ON WORKERS' COMPENSATION - MEMBERS - APPOINTMENT - TERMS - VACANCIES - OFFICERS - EXPENSES - MEETINGS - VOTING - DUTIES

A. There is hereby created an Advisory Council on Workers' Compensation.

B. The voting membership of the Advisory Council shall consist of nine (9) members. The Administrator and Presiding Judge of the Court shall be ex officio non-voting members.

1. The Governor shall appoint three (3) members representing employers in this state, one of whom shall be from a list of nominees provided by the predominant statewide broad-based business organization;

2. The Speaker of the House of Representatives shall appoint three (3) members representing employees in this state, one of whom shall be from a list of nominees provided by the most representative labor organization in the state; and

3. The President Pro Tempore of the Senate shall appoint three (3) members who are attorneys representing the legal profession in this state, one of whom shall be an attorney who practices primarily in the area of defense of workers' compensation claims.

C. 1. The term of office for initial appointees shall be as follows:

a. the term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1992;

b. the term of office of three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1993; and

c. the term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1994;

2. Thereafter, successors in office shall be appointed for a three-year term. Members shall be eligible to succeed themselves in office; and

3. Any person appointed to fill a vacancy shall be appointed for the unexpired portion of the term.

D. The chairman and the vice-chairman of the Advisory Council, one of whom shall be an employee representative and one of whom shall be an employer representative, shall be elected by the Council from among its voting members.

E. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

F. Meetings of the Advisory Council shall be quarterly or as called by the chair or upon petition by a majority of the voting members. The presence of five (5) voting members constitutes a quorum. No action shall be taken by the Advisory Council without the affirmative vote of at least five (5) members.

G. The Administrator of the Court shall provide office supplies and personnel of the Workers' Compensation Court to carry out any of the duties that have been entrusted to the Council.

H. The Advisory Council shall analyze and review the workers' compensation system, the reports of the Administrator of the Workers' Compensation Court, and trends in the field of workers' compensation. The Council may recommend improvements and proper responses to developing trends. The Council shall report its findings annually to the Governor, the Chief Justice of the Supreme Court, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

I. In addition to other duties required by this section, the Advisory Council shall consult with the Workers' Compensation Court regarding oversight of independent medical examiners as provided in Section 17 of this title.

SECTION 122
ACTIONS FOR INJURIES OR DEATH IN DEFINED EMPLOYMENTS ABROGATED - EXCEPTIONS

The right of action to recover damages for personal injuries or death arising and occurring in employment as herein defined, except the right of action reserved to an injured employee or his dependents or other legal representatives in Sections 12 and 44 of this title is hereby abrogated and all jurisdiction of the courts of this state over such causes, except as to the cause reserved to such injured employees or their dependents or other legal representatives in Sections 12 and 44 of this title is hereby abolished.

SECTION 131
CREATION OF COMPSOURCE OKLAHOMA - PURPOSE - CHARACTER AND CONTENTS - USE - NAME

There is hereby created and established a fund to be known as "CompSource Oklahoma", to be administered by a President and Chief Executive Officer, without liability on the part of the state beyond the amount of said fund, for the purpose of insuring employers against liability for compensation under Sections 131 through 151 of this title, and for assuring for the persons entitled thereto compensation provided by the workers' compensation law, and for the further purpose of insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability. Said fund may further provide insurance for employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., or employees engaged in employment subject to Title 4 of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

(a) CompSource Oklahoma shall be a revolving fund and shall consist of all premiums received and paid into said Fund for insurance issued, all property and securities acquired by and through the use of monies belonging to the fund and all interest earned upon monies belonging to the fund and deposited or invested as herein provided.

(b) Said fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in Sections 131 through 151 of this title.

(c) Said fund shall be fairly competitive with other insurance carriers and it is the intent of the Legislature that said Fund shall become neither more nor less than self-supporting.

(d) CompSource Oklahoma shall report to the Insurance Commissioner no later than the last day of February of each year the amount of premium taxes and fees for which it would be liable if it were operating as a private carrier.

(e) The official name of the fund which is known as "The State Insurance Fund" shall be designated in all future references as "CompSource Oklahoma". Any references in the Oklahoma Statutes to The State Insurance Fund shall be deemed references to CompSource Oklahoma.

SECTION 131a
BOARD OF MANAGERS OF COMPSOURCE OKLAHOMA - MEMBERS - MEETINGS - POWERS AND DUTIES - GRATUITIES PROHIBITED - NAME

A. There is hereby created a Board to be known as the "Board of Managers of CompSource Oklahoma", which Board shall have supervision over the administration and operation of CompSource Oklahoma, and shall be composed of nine (9) members as follows:

1. The Director of State Finance or a designee;

2. The Lieutenant Governor or a designee;

3. The State Auditor and Inspector or a designee;

4. The Director of Central Purchasing of the Department of Central Services;

5. One member appointed by the Governor;

6. Two members appointed by the Speaker of the House of Representatives, one of whom shall be representative of employers; and

7. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be representative of employees. The appointed members of the Board shall serve at the pleasure of the appointing authority.

B. The members of the Board shall elect annually from their number a Chair and a Secretary. The Secretary shall keep true and complete records of all proceedings of the Board. The Board shall meet quarterly, and at all other times when a meeting is called by the Chair, and at such meetings the Board may consider the condition of CompSource Oklahoma and quarterly shall make a detailed examination into the condition of its reserves and investments and at each meeting may examine all other matters relating to the administration of such Fund. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of the said Fund. Except as otherwise provided in this act or in the bylaws, all actions shall be taken by the affirmative vote of a majority of the Board members present at a meeting, except that no investment policy and no amendment of bylaws shall be valid unless authorized or ratified by the affirmative vote of at least four Board members.

C. Appointed members of the Board shall be reimbursed for expenses as provided in the State Travel Reimbursement Act. Said reimbursement, not to exceed thirty (30) days in any calendar year, shall be paid only when the Board is transacting official business. Any reimbursement in excess of thirty (30) days shall be approved by a majority of the Board. The Board shall have access to all records and books of account and shall have power to require the presence or appearance of any officer or employee of CompSource Oklahoma. All information obtained by the members of the Board shall be confidential unless disclosed by order of the Board.

D. No person or organization in a position to influence official action of members of the Board of Managers of CompSource Oklahoma, the President and Chief Executive Officer, and the employees of CompSource Oklahoma shall furnish presents, gratuities, transportation, lodging, educational seminars, conferences, meetings, or similar functions to the Board of Managers of CompSource Oklahoma, President and Chief Executive Officer, and the employees of CompSource Oklahoma other than as provided by law and the rules of the Ethics Commission.

E. The official name of the Board of Managers which is known as the "Board of Managers of the State Insurance Fund" shall be designated in all future references as the "Board of Managers of CompSource Oklahoma". Any references in the Oklahoma Statutes to the Board of Managers of the State Insurance Fund shall be deemed references to the Board of Managers of CompSource Oklahoma.

SECTION 131b
PRESIDENT AND CHIEF EXECUTIVE OFFICER OF COMPSOURCE OKLAHOMA - REFERENCES

A. The Board of Managers of CompSource Oklahoma shall appoint a President and Chief Executive Officer, who shall be executive manager of CompSource Oklahoma.

B. All references in the Oklahoma Statutes to the State Insurance Fund Commissioner or the Commissioner of the State Insurance Fund shall

be deemed references to the CompSource Oklahoma President and Chief Executive Officer.

SECTION 131c
TASK FORCE ON PRIVATIZATION OF COMPSOURCE OKLAHOMA

A. In order to create a stable, predictable, competitive workers' compensation market place in the State of Oklahoma for the benefit of Oklahoma employers and employees, it is the intent of the Legislature that CompSource Oklahoma be converted into a private insurance company no later than December 31, 2010.

B. In order to accomplish the conversion of CompSource Oklahoma to a private insurance company, there is hereby created until December 31, 2011, the Task Force on Privatization of CompSource Oklahoma. The task force will examine the issues as they relate to privatizing CompSource Oklahoma. The resulting private entity shall operate in the same manner as any domestic insurer in the state and shall be subject to the same laws, taxes, guaranty fund assessments and other regulatory requirements.

C. The task force shall consist of nine (9) members as follows:

1. The Insurance Commissioner;

2. Four members appointed by the President Pro Tempore of the Senate as follows:

   a. one actuary expert,

   b. one member who represents CompSource Oklahoma,

   c. one member of the Senate, and

   d. one member from a statewide organization that is an advocacy association for business and industry; and

3. Four members appointed by the Speaker of the House of Representatives as follows:

   a. one member who represents the private insurance industry and is among the top ten writers of workers' compensation premiums in this state,

   b. one member of the House of Representatives,

   c. one member of the Board of Directors of the Oklahoma Property and Casualty Insurance Guaranty Association, and

   d. one member from an independent insurance agents association.

D. 1. Members shall serve at the pleasure of their appointing authorities. A vacancy on the task force shall be filled by the original appointing authority.

2. Appointments to the task force shall be made by July 1, 2009.

3. A majority of the members of the task force shall constitute a quorum. A majority of the members present at a meeting may act for the task force.

4. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair from among the members of the task force.

5. The cochairs of the task force shall convene the first meeting of the task force on or before July 15, 2009, at which time a schedule of the meetings shall be determined.

E. The task force may use the services of the staffs of the Senate and the House of Representatives and may, as necessary, seek the advice and services of experts in the field of insurance.

F. CompSource Oklahoma shall cooperate with the task force in fulfilling its duties and responsibilities including, but not limited to, providing any information, records or reports requested by the task force.

G. Members of the task force shall receive no compensation for their service, but shall receive travel reimbursement as follows:

1. Legislative members of the task force shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the task force shall be reimbursed by their appointing authorities or respective agencies for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

H. Consistent with the intent of the Legislature that CompSource Oklahoma be privatized no later than December 31, 2010, the task force shall identify the steps necessary and develop a plan to convert CompSource Oklahoma into a private insurance company. Such plan shall include, but not be limited to, the following areas:

1. Establishment of a residual market mechanism that will protect the interests of all Oklahoma employers and employees, including a plan for rate stabilization to ensure the guaranteed availability of workers' compensation insurance;

2. Review of the current financial condition of CompSource Oklahoma;

3. Loss portfolio transfer;

4. Request for proposal process;

5. Consideration of the impact of privatization and the most appropriate way to accommodate current CompSource Oklahoma employees;

6. Studying current statutes regarding the responsibilities of CompSource Oklahoma;

7. Identification of all necessary statutory changes including, but not limited to, securing funding for volunteer firefighters workers' compensation premiums; and

8. Any other issues identified by the task force as necessary to accomplish the privatization of CompSource Oklahoma.

I. The task force shall publish and submit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor its findings and recommendations by December 1, 2009, including recommendations for any resulting legislation.

SECTION 132

POWERS AND JURISDICTION OF COMPSOURCE OFFICERS

The CompSource Oklahoma President and Chief Executive Officer is hereby vested with full power, authority and jurisdiction over CompSource Oklahoma. He or she shall perform any duties which are necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund in the administration thereof, or in connection with the insurance business to be carried on by him under the provisions of Sections 131 through 151 of this title as fully and completely as a governing body of a private insurance carrier might or could do including the acquisition, operation and maintenance of an electronic data processing facility.

The Board of Managers of CompSource Oklahoma shall have full power and authority to fix and determine the rates to be charged by CompSource Oklahoma for insurance.

SECTION 132a

VOLUNTEER FIREFIGHTERS - VOLUNTEER FIREFIGHTERS GROUP INSURANCE POOL

A. 1. Volunteer fire departments organized pursuant to state law may obtain workers' compensation insurance for volunteer firefighters through the Volunteer Firefighter Group Insurance Pool pursuant to requirements established by CompSource Oklahoma which shall administer the Pool. For the premium set by CompSource Oklahoma, the state shall provide Fifty-five Dollars ($55.00) per firefighter per year. Except as otherwise provided by subsection D of this section, the total amount paid by the state shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-eight Dollars ($320,338.00) per year or so much thereof as may be necessary to fund the Volunteer Firefighter Group Insurance Pool.

2. CompSource Oklahoma shall collect the premium from state agencies, public trusts and other instrumentalities of the state. Any funds received by CompSource Oklahoma from any state agency, public trust, or other instrumentality for purposes of workers' compensation insurance pursuant to this section shall be deposited to the

credit of the Volunteer Firefighter Group Insurance Pool. CompSource Oklahoma shall collect premiums, pay claims, and provide for excess insurance as needed.

B. CompSource Oklahoma shall report, annually, to the Governor, the Speaker of the Oklahoma House of Representatives, and the President Pro Tempore of the State Senate the number of enrollees in the Volunteer Firefighter Group Insurance Pool, and the amount of any anticipated surplus or deficiency of the Pool; and shall also provide to the Governor, the Speaker of the Oklahoma House of Representatives, and the President Pro Tempore of the State Senate sixty (60) days advance notice of any proposed change in rates for the Volunteer Firefighter Group Insurance Pool.

C. The amount of claims paid, claim expenses, underwriting losses, loss ratio, or any other financial aspect of the Volunteer Firefighter Group Insurance Pool shall not be considered when determining or considering bids for the amount of any premiums, rates, or expenses owed by, or any discounts, rebates, dividends, or other financial benefits owed to any other policyholder of CompSource Oklahoma.

D. Except as otherwise provided by law, any increase in the state payment rate for volunteer firefighters under the volunteer Firefighter Group insurance Pool shall not exceed five percent (5%) per annum. Any proposed change in rates for the Volunteer Firefighter Group Insurance Pool must be approved by the Board of Managers of CompSource Oklahoma with notice provided pursuant to subsection B of this section. CompSource Oklahoma shall not increase premiums for the Volunteer Firefighter Group Insurance Pool more than once per annum.

E. For purposes of this section, the term "volunteer fire departments" include those volunteer fire departments which have authorized voluntary or uncompensated workers rendering services as firefighters and are created by statute pursuant to Section 592 of Title 18 of the Oklahoma Statutes, Sections 29-201 through 29-205 of Title 11 of the Oklahoma Statutes, and those defined by Section 351 of Title 19 of the Oklahoma Statutes.

SECTION 133
MANAGEMENT AND CONDUCT OF BUSINESS AND AFFAIRS OF FUND

The CompSource Oklahoma President and Chief Executive Officer shall have full power and authority to manage and conduct all business and affairs relating to CompSource Oklahoma, all of which business and affairs shall be conducted under the name of CompSource Oklahoma, and in that name and without any other name or title, the CompSource Oklahoma President and Chief Executive Officer may:

(1) Sue and be sued in all the courts of the State, in all actions arising out of any act, deed, matter or things made, omitted, entered into, done or suffered in connection with CompSource Oklahoma, and administer, manage, or conduct all the business and affairs relating thereto.

(2) Make and enter into contracts of insurance as herein provided, and such other contracts or obligations relating to CompSource Oklahoma, as are authorized or permitted under the provisions of this title, including contracting with or appointing agents or brokers; provided the agents or brokers do not contract with or have an appointment solely with CompSource Oklahoma.

(3) Invest and reinvest the moneys belonging to CompSource Oklahoma as hereinafter provided.

(4) Conduct all business and affairs, relating to CompSource Oklahoma, whether herein specifically designated or in addition thereto.

(5) The CompSource Oklahoma President and Chief Executive Officer may delegate to any officer of CompSource Oklahoma, under such rules and regulations, and subject to such conditions as he or she may from time to time prescribe, any of the powers, functions or duties conferred or imposed on the CompSource Oklahoma President and Chief Executive Officer under the provisions of this act in connection with CompSource Oklahoma, the administration, management and conduct of the business or affairs relating thereto, and the officer or officers to whom such delegation is made may exercise the power and functions and perform the duties delegated with the same force and effect as the CompSource Oklahoma President and Chief

Executive Officer, but subject to his or her approval.

(6) The Board of Managers of CompSource Oklahoma shall not, nor shall the CompSource Oklahoma President and Chief Executive Officer or any officer or employee of CompSource Oklahoma be personally liable in his or her private capacity for or on account of any act performed or contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud, in connection with the administration, management or conduct of CompSource Oklahoma, its business or other affairs relating thereto.

SECTION 134

POWER AND AUTHORITY OF COMMISSIONER OR DELEGATED OFFICER IN CONDUCTING BUSINESS AND AFFAIRS OF COMPSOURCE OKLAHOMA

A. In conducting the business and affairs of CompSource Oklahoma, the CompSource Oklahoma President and Chief Executive Officer, or other officer to whom such power and authority may be delegated by the CompSource Oklahoma President and Chief Executive Officer, as provided by Section 133 of this title, shall have full power and authority:

1. To enter into contracts of insurance, insuring employers against liability for compensation, and insuring to employees and other persons entitled thereto compensation as provided by the Workers' Compensation Act, Section 1 et seq. of this title;

2. To decline to insure any risk in which the minimum requirements of the law with regard to construction, equipment and operation are not observed, or which is beyond the safe carrying of CompSource Oklahoma, but shall not have power or authority, except as otherwise provided in this act to refuse to insure any compensation risk tendered with the premium therefor;

3. To enter into contracts of insurance insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees for which the insured may be liable or have assumed liability, including, but not limited to, contracts of insurance or reinsurance for the purpose of insuring employers operating in this state and their employees who may work outside this state;

4. To purchase reinsurance for any risk or any portion of any risk of CompSource Oklahoma. The purchase of reinsurance may be made through intermediaries, exclusive of the provisions of The Oklahoma Central Purchasing Act;

5. To inspect and audit, cause to be inspected and audited, or require production of the records of employers insured with or applying for insurance with CompSource Oklahoma against liability for compensation;

6. To contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from said Fund;

7. To meet the reasonable expenses of conducting the business of CompSource Oklahoma;

8. To produce a reasonable surplus to cover catastrophe hazard; and

9. To administer a program in compliance with Section 924.3 of Title 36 of the Oklahoma Statutes, whereby employers may appeal rating classification decisions which are disputed. CompSource Oklahoma shall notify employers of the availability of the program.

B. CompSource Oklahoma must be funded through actuarially sound rates and premiums charged to its policyholders.

C. CompSource Oklahoma shall establish and use rates and rating plans to assure that it is self-funding while those rates are in effect.

D. No later than September 1 of each year, CompSource Oklahoma shall obtain an independent actuarial certification of the results of its operations for prior years.

E. Any premium or assessments collected by CompSource Oklahoma in excess of the amount necessary to fund its projected ultimate incurred losses and expenses and not paid to policyholders insured under CompSource Oklahoma in conjunction with dividend programs shall be retained by CompSource Oklahoma.

F. CompSource Oklahoma losses are the sole and exclusive responsibility of CompSource Oklahoma, and payment for such losses must be funded in accordance with this section and must not come, directly or indirectly, from insurers or any guaranty association for such insurers, except for reinsurance purchased by CompSource Oklahoma.

SECTION 135
DEPOSITS AND TRANSFERS - WARRANTS

A. All receipts of money, with the exception of investment income, shall be deposited in the CompSource Oklahoma fund in the State Treasury. The CompSource Oklahoma President and Chief Executive Officer, subject to the direction of the Board of Managers, shall have the responsibility for the management of the CompSource Oklahoma fund, and may transfer monies used for investment purposes from the CompSource Oklahoma fund in the State Treasury to the custodian bank or trust company of CompSource Oklahoma.

B. 1. All benefits payable pursuant to the provisions of the bylaws of CompSource Oklahoma, and refunds of premiums and overpayments, shall be paid from CompSource Oklahoma upon warrants or vouchers signed by two persons designated by the CompSource Oklahoma President and Chief Executive Officer.

2. Every check, draft, warrant, or other instrument drawn for the payment of temporary total disability benefits by CompSource Oklahoma shall contain on its face in a contrasting color of ink the following:

> WARNING: It is a felony to knowingly receive money under false pretenses by accepting temporary total disability benefits while working at the same or a similar job. If you are employed or receiving wages, you should consult CompSource Oklahoma or if you are represented by an attorney you should consult your attorney BEFORE presenting this instrument to any other person for payment.

3. The CompSource Oklahoma President and Chief Executive Officer may transfer monies from the custodian bank or trust company of CompSource Oklahoma to the CompSource Oklahoma fund in the State Treasury for the purposes specified in this subsection.

SECTION 135.1
PETTY CASH FUND

There is hereby created a petty cash fund within CompSource Oklahoma. Said petty cash fund shall be in such amounts as are determined to be necessary by the Director of State Finance and the CompSource Oklahoma President and Chief Executive Officer. Petty cash funds may be expended for the payment of emergency purchases and bills. The said funds may be reimbursed by the Director of State Finance upon the filing of a claim with the proper receipts showing the disbursements therefrom, reimbursement to be made from the revolving fund. The Director of State Finance shall prescribe all forms, systems and procedures for administering the petty cash fund.

SECTION 136
APPOINTMENT OF ASSISTANTS, ACCOUNTANTS, ADJUSTERS, ETC. - COMPENSATION AND SALARIES - CHIEF ATTORNEY

A. The CompSource Oklahoma President and Chief Executive Officer shall appoint, with the approval of the Board of Managers of CompSource Oklahoma, such assistants, accountants, claim adjusters, and other employees as may be necessary to conduct the business and carry out the provisions of Section 131 et seq. of this title, or to perform the duties imposed upon him by this act; provided, that in no event shall the salaries of such employees, together with all other expenses of said fund, exceed twenty percent (20%) of the earned premiums.

B. The chief attorney for the Board shall receive a salary equal to that paid to a judge of the Workers' Compensation Court.

SECTION 137
PERCENTAGE OF PREMIUMS FOR SURPLUS FUND - TRANSFER TO OTHER FUNDS - RESERVES

A. 1. Ten percent (10%) of the premiums collected from all persons, firms or corporations

insured in CompSource Oklahoma, shall be set aside by the CompSource Oklahoma President and Chief Executive Officer for the creation of surplus, until the surplus shall amount to the sum of Two Hundred Fifty Thousand Dollars ($250,000.00), and thereafter five percent (5%) of such premiums shall be set aside until such time as in the judgment of the State Insurance Board such surplus shall be sufficiently large to cover the catastrophe hazard, and all other unanticipated losses.

2. If the ratio of net premium-to-surplus exceeds 1:2 on July 1 of any year, the Board of Managers shall, within sixty (60) days, declare a dividend of sufficient size to reduce the ratio of net premium-to-surplus to no more than 1:2. The dividend may be declared in the form of cash, cash equivalents, negotiable instruments, or credits against past, present, or future premiums on or before October 15 next following declaration of the dividend and shall be payable to policyholders having policies in force when the dividend is declared.

B. The Board of Managers is hereby vested with authority, in its discretion, to transfer funds from such surplus to other funds of CompSource Oklahoma when deemed necessary or advisable; provided, that in no event shall such surplus be reduced to a sum less than One Hundred Fifty Thousand Dollars ($150,000.00).

C. Reserves shall be established and maintained adequate to meet anticipated losses and to carry all claims and policies to maturity, which reserves shall be computed in accordance with rules adopted by the Board of Managers.

SECTION 138

INVESTMENT OF MONIES - LIABILITY OF BOARD MEMBERS - INVESTMENT COMMITTEE - INVESTMENT MANAGERS - SELECTION OF CUSTODIAN - INVESTMENT PLAN - FINANCIAL REPORT

A. The Board of Managers shall discharge their duties with respect to CompSource Oklahoma solely in the interest of CompSource Oklahoma and:

1. For the exclusive purpose of:

   a. providing benefit to CompSource Oklahoma, and

   b. defraying reasonable expenses of administering CompSource Oklahoma;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of CompSource Oklahoma so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing CompSource Oklahoma.

B. The monies of CompSource Oklahoma shall be invested only in assets eligible for the investment of funds of a domestic property and casualty insurance company as provided for in the Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies of CompSource Oklahoma and the provisions relating to limitation of investments as a percentage of surplus as regards policyholders shall be inapplicable with respect to investment of the monies of CompSource Oklahoma. The monies of CompSource Oklahoma may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in the rights-of-way acquisitions by the Oklahoma Department of Transportation. The monies of CompSource Oklahoma may also be invested in bonds secured by first mortgages, pass-through securities and insured participation certificates representing interests in first mortgages or insured mortgage pass-through certificates on one- to four-family residences located within this state. CompSource Oklahoma may enter into agreements with the Multiple Injury Trust Fund to fulfill any payment obligation of the Multiple Injury Trust Fund, including all court orders for material increases and the accrued interest thereon, and all orders for interest on previously paid awards.

C. 1. The CompSource Oklahoma President and Chief Executive Officer, with the approval of the Board of Managers, is authorized to acquire any real estate deemed necessary for

the immediate and reasonably anticipated future administrative office space needs of CompSource Oklahoma. The CompSource Oklahoma President and Chief Executive Officer, with the approval of the Board of Managers, may sell, lease, rent or sublet any real estate holdings of CompSource Oklahoma. Any revenue of such transactions shall accrue to the surplus or reserve fund of CompSource Oklahoma.

2. In any lease, rental, sublease or other agreement for the use or occupation of real estate holdings of CompSource Oklahoma, no state agency may enter into an agreement which has a gross effective rental rate which is greater than the gross effective rental rate for which they can continue to occupy the premises which is currently rented at the time the agency proposes to move. For a period of two (2) years after the first use or occupation by the state agency, subsequent agreements, whether new agreements or continuations of a prior agreement, shall not contain a gross effective rental rate which is greater than that of the original agreement.

D. The Board of Managers may procure insurance indemnifying the members of CompSource Oklahoma from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Managers.

E. The Board of Managers may establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Board of Managers appointed by the chairman of the Board of Managers. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of CompSource Oklahoma, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Managers or CompSource Oklahoma in any circumstances whatsoever. No recommendation of the Committee shall have effect as an action of the Board of Managers nor take effect without the approval of the Board of Managers as provided by law.

F. The Board of Managers shall retain qualified investment managers to provide for the investment of the monies of CompSource Oklahoma. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Mangers. Subject to the overall investment guidelines set by the Board of Managers, the investment managers shall have full discretion in the management of those monies of CompSource Oklahoma allocated to the investment managers. The Board of Managers shall manage those monies not specifically allocated to the investment managers. The monies of CompSource Oklahoma allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

G. Funds and revenues for investment by the investment managers or the Board of Managers shall be placed with a custodian selected by the Board of Managers. The custodian shall be a bank or trust company offering master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Managers. In compliance with the investment policy guidelines of the Board of Manager, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of CompSource Oklahoma are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of CompSource Oklahoma as to the investment of the monies of the State Insurance Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of Managers for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

H. Prior to August 1 of each year, the Board of Managers shall develop and approve a written investment plan for CompSource Oklahoma.

I. The CompSource Oklahoma President and Chief Executive Officer shall compile a quarterly financial report of all the funds of CompSource Oklahoma. The report shall be compiled and filed pursuant to uniform reporting standards prescribed by the State Insurance

Commissioner for domestic property and casualty insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall contain a list of all investments made by CompSource Oklahoma and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be distributed to the Governor, the Legislative Service Bureau and the Cash Management and Investment Oversight Commission.

J. CompSource Oklahoma, on behalf of the Multiple Injury Trust Fund, may enter into an agreement with any reinsurer licensed to sell reinsurance by the State Insurance Commissioner selected pursuant to a competitive process administered by the Director of Central Purchasing in the Department of Central Services.

SECTION 138.2
FIDUCIARY'S POWERS AND DUTIES

A. A fiduciary with respect to the State Insurance Fund shall not cause the State Insurance Fund to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. sale or exchange, or leasing of any property from the State Insurance Fund to a party in interest for less than adequate consideration or from a party in interest to the State Insurance Fund for more than adequate consideration;

2. lending of money or other extension of credit from the State Insurance Fund to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the State Insurance Fund with provision of excessive security or an unreasonably high rate of interest;

3. furnishing of goods, services or facilities from the State Insurance Fund to a party in interest for less than adequate consideration, or from a party in interest to the State Insurance Fund for more than adequate consideration; or

4. transfer to, or use by or for the benefit of, a party in interest of any assets of the State Insurance Fund for less than adequate consideration.

B. A fiduciary with respect to the State Insurance Fund shall not:

1. deal with the assets of the State Insurance Fund in the fiduciary's own interest or for the fiduciary's own account;

2. in the fiduciary's individual or any other capacity act in any transaction involving the State Insurance Fund on behalf of a party whose interests are adverse to the interests of the State Insurance Fund or the interests of its participants or beneficiaries; or

3. receive any consideration for the fiduciary's own personal account from the party dealing with the State Insurance Fund in connection with a transaction involving the assets of the State Insurance Fund.

C. A fiduciary with respect to the State Insurance Fund may:

1. invest all or part of the assets of the State Insurance Fund in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the State Insurance Fund to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the State Insurance Fund or exercises any authority or control respecting management or disposition of the assets of the State Insurance Fund;

2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the State

Insurance Fund, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the State Insurance Fund.

SECTION 139
EXPENSES OF ADMINISTRATION - BUDGET - LIMITATION ON AMOUNT - AUDIT OF ACCOUNTS AND RECORDS - ANNUAL FINANCIAL STATEMENT - AUDIT OF FUND

The entire expenses of administering "CompSource Oklahoma" shall be paid out of such fund upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. On or before the first day of June of each year, or as soon thereafter as possible, there shall be submitted to the Board of Managers of CompSource Oklahoma, for approval, an estimated budget of expenses for the succeeding fiscal year. The CompSource Oklahoma President and Chief Executive Officer may not expend from the funds belonging to CompSource Oklahoma for purposes of administering any sum in excess of the amount specified in such budget for any item of expense therein set forth unless such expenditure is authorized by the Board of Managers of CompSource Oklahoma. In no event shall the entire expenses of administration of CompSource Oklahoma, as authorized for the entire year, exceed twenty percent (20%) of the earned premiums of the year. The Board of Managers may use present value discounting at a rate of four percent (4%) for computing reserves. The Board of Managers shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of account and financial records of the fund for such calendar year, such audit to be made by an independent certified public accountant, a licensed public accountant, a firm of certified public accountants, or an accounting firm or individual holding a permit to practice accounting in this state. The audit shall be filed with the Director of State Finance in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

CompSource Oklahoma shall submit to the State Insurance Commissioner an annual financial statement in the same manner as a domestic insurance carrier. The Insurance Commissioner may audit CompSource Oklahoma in the same manner as a domestic insurance company if an audit does not conflict with any specific provision contained herein. The CompSource Oklahoma President and Chief Executive Officer shall provide a copy of the annual financial statement to the Governor and CompSource Oklahoma Board of Managers.

SECTION 141
ACCOUNTS OF MONEY PAID, EXPENSES, LOSSES, ETC.

The CompSource Oklahoma President and Chief Executive Officer shall keep an account of the money paid in premiums by each classification of persons, firms, or corporations insured by CompSource Oklahoma, and the expense of administering CompSource Oklahoma and the disbursements on account of loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which persons injured, CompSource Oklahoma were liable or had assumed liability, including the setting up of reserves adequate to meet unanticipated and unexpected losses and to carry the claims to maturity; and, also, an account of the money received from such individual insured; and of the amount disbursed from "CompSource Oklahoma", for expenses, and on account of injuries, death by accident, sickness or disease, and disability of persons to whom such insured was liable or had assumed liability, including the reserves set up.

SECTION 142
PREMIUMS - PAYMENTS - ADJUSTED PREMIUMS

Premiums for any policy period shall be paid into CompSource Oklahoma and adjusted according to the contract of insurance. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of premium due. If such adjusted premium is less than the premium paid at the beginning of the period, the employer shall at the employer's option receive either refund of the difference or a credit of the amount thereof on the employer's account with CompSource Oklahoma.

SECTION 142a
PREMIUM CREDIT PROGRAM

The State Insurance Fund, in cooperation with the Department of Labor, shall develop and implement an insurance premium credit program for the insureds of the State Insurance Fund which is consistent with the provisions of Section 1 of this act *(Title 36, § 924.2)*.

SECTION 144
DEFAULT IN PAYMENT - INSURANCE CANCELLED

If any persons, firm or corporation insured by said State Insurance Fund shall default in the payment required to be made by him to the State Insurance Fund, after due notice his insurance in "The State Insurance Fund" may be canceled and the amount due from him shall be collected by a civil action against him in the name of "The State Insurance Fund", and the same when collected shall be paid into "The State Insurance Fund", and such insured's compliance with the provisions of this article requiring payments to be made to "The State Insurance Fund" shall date from the time of the payment of such money so collected as aforesaid to "The State Treasurer" for credit of "The State Insurance Fund".

SECTION 145
RECORD OF EMPLOYEES AND WAGES - INSPECTION - FAILURE TO KEEP OR FALSIFYING

Every person, firm, or corporation who has insured in "The State Insurance Fund" shall keep a true and accurate record of the number of employees and the wages paid and shall furnish upon demand a sworn statement of the same. The record shall be open to inspection at any time, and as often as may be necessary to verify the number of employees and the amount of the pay roll. Any person, firm, or corporation who shall willfully fail to keep the required records or who shall willfully falsify any such record, shall be guilty of a felony.

SECTION 146
MISREPRESENTATION A FELONY

Any person who willfully misrepresents any fact in order to obtain insurance in "The State Insurance Fund" at less than the proper rate for such insurance, or in order to obtain payment out of such fund shall be guilty of a felony.

SECTION 147
INFORMATION NOT OPEN TO PUBLIC INSPECTION - DISCLOSURE AS MISDEMEANOR - LISTINGS OF INSUREDS TO COMMISSIONER OF LABOR

A. Information acquired by the CompSource Oklahoma President and Chief Executive Officer or the officers or employees of CompSource Oklahoma, from persons, firms or corporations insured in CompSource Oklahoma, or from employees of such persons, firms or corporations pursuant to this article shall not be open to public inspection, and any officer or employee of the State of Oklahoma, who without authority of the Commissioner, or pursuant to the rules prescribed by the CompSource Oklahoma President and Chief Executive Officer, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor.

B. For the purpose of implementing Section 142a of this title, the CompSource Oklahoma President and Chief Executive Officer shall provide to the Commissioner of Labor annually, upon request, a listing of the insureds of CompSource Oklahoma with the name, address and nature of business or occupation of the insured.

SECTION 148
CONTRACT OF INSURANCE - PAYMENT OF PREMIUMS

Every person, firm or corporation insuring in "CompSource Oklahoma" shall receive from CompSource Oklahoma a contract or policy of insurance to be approved by the State Insurance Board.

Except as otherwise provided in this act all premiums shall be paid by every person, firm, or corporation who elects to insure with "CompSource Oklahoma" to the CompSource Oklahoma President and Chief Executive Officer semiannually, or at such times as may be prescribed by general rule or regulation applicable to all insurers alike by the Insurance Commissioner. Receipts shall be given for such payment and the money shall be paid over to the credit of CompSource Oklahoma.

SECTION 149.1
GROUP SELF-INSURERS

A. The Workers' Compensation Court shall adopt rules permitting two or more employers not otherwise subject to the provisions of Section 2b of this title to pool together liabilities under this act for the purpose of qualifying as a group self-insurer and each such employer shall be classified as a self-insurer.

B. The Court shall approve the distribution of all undistributed policyholders' surplus of a Workers' Compensation Self-Insurance Program if the program complies with the following criteria:

1. Has been in business for at least five (5) years;

2. Has its financial statements audited by a public accounting firm which audits at least one corporate client which has assets in excess of One Billion Dollars ($1,000,000,000.00) and on which the accounting firm has issued an unqualified opinion as to the fair presentation of the financial position of the Program showing adequate solvency and reserves; and

3. Is in compliance with the provisions of this title and all other regulations as required by the Court.

C. A group self-insurer created pursuant to this section either prior to or after the effective date of this act shall not be subject to the provisions of the Oklahoma Securities Act.

SECTION 149.2
SELF-INSURANCE ASSOCIATIONS - POOLING OF LIABILITIES

The Workers' Compensation Court shall adopt rules permitting two or more group self-insurance associations to pool their liabilities under this act for the purpose of providing such group self-insurance associations specific and aggregate excess insurance.

SECTION 151
PARTIAL INVALIDITY

If any section of the provision of this Act be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of this Act as a whole, or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 154
COMPSOURCE OKLAHOMA - REPORT - ANNUAL MARKET EQUALIZATION ASSESSMENT

A. CompSource Oklahoma shall, annually, on or before the first day of March, report under oath of the President and Chief Executive Officer of CompSource Oklahoma to the State Treasurer, the total amount of direct written premiums and membership, application, policy and registration fees charged by CompSource Oklahoma during the preceding calendar year for insurance covering one or more of the following:

1. Insuring employers against liability for compensation under Sections 131 through 151 of Title 85 of the Oklahoma Statutes;

2. Assuring for the persons entitled thereto compensation provided by the workers' compensation law;

3. Insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability; and

4. Insuring employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., or employees engaged in employment subject to Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

B. CompSource Oklahoma, at the time the report required by subsection A of this section is filed, shall pay to the State Treasury to the credit of the General Revenue Fund, an annual market equalization assessment on all of the direct written premiums after all returned premiums are deducted, on all membership, application, policy and registration fees, and installment and finance fees or charges collected by CompSource Oklahoma, relating to written, continued and serviced insurance for purposes listed in

paragraphs 1 through 4 of subsection A of this section; provided, no deduction shall be made from premiums for dividends paid to policyholders. The rate of assessment shall be two and twenty-five-one-hundredths percent (2.25%). If CompSource Oklahoma fails to remit the assessments in a timely manner, it shall remain liable therefor together with interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four (4) percentage points.

SECTION 171

PHYSICALLY IMPAIRED PERSON DEFINED

For the purpose of Sections 171 through 176 of this title, the term "physically impaired person" means a person who as a result of accident, disease, birth, military action, or any other cause, has suffered the loss of the sight of one eye, the loss by amputation of the whole or a part of a member of his body, or the loss of the use or partial loss of the use of a member such as is obvious and apparent from observation or examination by an ordinary layman, that is, a person who is not skilled in the medical profession, or any previous adjudications of disability adjudged and determined by the Workers' Compensation Court or any disability resulting from separately adjudicated injuries and adjudicated occupational diseases even though arising at the same time.

SECTION 172

COMPENSATION FOR ADDITIONAL DISABILITY - LIABILITY OF EMPLOYER - PAYMENT FROM MULTIPLE INJURY TRUST FUND

A. 1. For actions filed before November 1, 1999, except as otherwise provided in this section, an employee, who is a "physically impaired person" and who receives an accidental personal injury compensable under the Workers' Compensation Act which results in additional permanent disability so that the degree of disability caused by the combination of both disabilities is materially greater than that which would have resulted from the subsequent injury alone, shall receive compensation on the basis of such combined disabilities from the Multiple Injury Trust Fund. Only disability due to an injury to the body as a whole shall be combinable with a prior body disability, except that disability to a major member may be combined with disability to the body as a whole.

2. a. For actions filed before November 1, 1999, if such combined disabilities constitute partial permanent disability as defined in Section 3 of this title, then the employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from the subsequent injury, and in addition thereto the employee shall receive full compensation for the combined disability as above defined, after deducting therefrom the percent of that disability that constituted the employee a "physically impaired person", as defined herein, all of which shall be computed upon the schedule and pursuant to the provisions of the Workers' Compensation Act. After payments by the employer or the insurance carrier of the employer, if any, have ceased, the remainder of such compensation shall immediately be paid out of the Multiple Injury Trust Fund provided for in Section 173 of this title, in periodic installments. The employer or the insurance carrier of the employer shall be liable only for the degree of percent of disability which would have resulted from the latter injury if there had been no preexisting impairment.

b. For actions filed on or after November 1, 1999, but before June 1, 2000, if the combined disabilities constitute partial permanent disability as defined in Section 3 of this title, then the employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from the subsequent injury. The employee shall not receive any additional compensation for the combined disability as above defined, after deducting therefrom the percent of disability that constituted the employee a "physically impaired person".

B. 1. For actions in which the subsequent injury occurred before June 1, 2000, if such combined disabilities constitute permanent total disability, as defined in Section 3 of this title, then the employee shall receive full compensation as provided by law for the disability resulting directly and specifically from the subsequent injury. In addition the employee shall receive full compensation for the combined disability, as above defined, all of which shall be computed upon the schedule and provisions of the Workers' Compensation Act. The employer shall be liable only for the degree of percent of disability which would have resulted from the subsequent injury if there had been no preexisting impairment. After all permanent partial disability payments by the employer or the insurance carrier of the employer have ceased, the remainder of the compensation shall be paid out of the Multiple Injury Trust Fund provided for in Section 173 of this title, in periodic installments. In permanent total disability cases the same may be paid in periodic payments, as set forth in Section 22 of this title, or may be commuted to a lump-sum payment, by agreement of the claimant and the Multiple Injury Trust Fund. The compensation rate for permanent total awards from the Multiple Injury Trust Fund shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total awards from the Multiple Injury Trust Fund shall be payable for a period of five (5) years or until the employee reaches sixty-five (65) years of age, whichever period is the longer. Multiple Injury Trust Fund awards shall accrue from the file date of the court order finding the claimant to be permanently and totally disabled.

2. For actions in which the subsequent injury occurred on or after June 1, 2000, but before November 1, 2005, if such combined disabilities constitute permanent total disability, as defined in Section 3 of this title, then the claimant shall receive full compensation as now provided by law for the disability resulting directly and specifically from the subsequent injury. In addition, the claimant shall receive full compensation for permanent total disability if the combination of injuries renders the employee permanently and totally disabled, as above defined, all of which shall be computed upon the schedule and provisions of the Workers' Compensation Act. The employer shall be liable for the degree of percent of disability which would have resulted from the subsequent injury if there had been no preexisting impairment and for permanent total disability if the combination of such injuries renders the employee permanently and totally disabled. Payment for the permanent total disability resulting from the combination of injuries which renders the employee permanently and totally disabled may be paid in periodic installments or may be commuted to a lump-sum payment upon agreement of the claimant and the employer or insurance carrier for the employer. The compensation rate for permanent total disability awards resulting from a combination of injuries shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total disability awards resulting from a combination of injuries shall be payable for a period of fifteen (15) years or until the claimant reaches sixty-five (65) years of age, whichever period is the longer. Such awards shall be paid from the date the court order finding the claimant to be permanently and totally disabled is filed.

3. For actions in which the subsequent injury occurred on or after November 1, 2005, if such combined disabilities constitute permanent total disability, as defined in Section 3 of this title, then the employee shall receive full compensation as provided by law for the disability resulting directly and specifically from the subsequent injury. In addition, the employee shall receive full compensation for permanent total disability if the combination of injuries renders the employee permanently and totally disabled, as above defined, all of which shall be computed upon the schedule and provisions of the Workers' Compensation Act. The employer shall be liable only for the degree of percent of disability which would have resulted from the subsequent injury if there had been no preexisting impairment. In permanent total disability cases the remainder of the compensation shall be paid out of the Multiple Injury Trust Fund and may be paid in periodic payments, as set forth in Section 22 of this title. The compensation rate for permanent total disability awards from the Multiple Injury Trust Fund shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total disability awards from the Multiple Injury Trust Fund shall be payable for a period of fifteen (15) years or until the employee reaches sixty-five (65) years of age, whichever period is the longer. Permanent total disability awards from the Multiple Injury Trust Fund shall accrue from the file

date of the court order finding the claimant to be permanently and totally disabled.

C. For all actions filed prior to November 1, 1999, before a physically impaired person can proceed against the Multiple Injury Trust Fund, the preexisting permanent partial disability and the permanent partial disability from the last injury must exceed a total amount equal to forty percent (40%) to the body.

D. Awards under this section shall abate upon the death, from any cause, of the employee.

E. Reopening any prior injury claim other than the last employer injury claim shall not give a claimant the right to additional Multiple Injury Trust Fund benefits or additional benefits from any employer or an insurance carrier for any employer, for a material increase in disability resulting from a combination of injuries.

F. Awards that are not claimed within two (2) years of the date on which the award first becomes available shall be returned to the party who is responsible for payment of the award, less any attorney fees, as specified in the original court order awarding benefits for a material increase in disability resulting from a combination of injuries. Payment for attorney fees shall be made separately from payment to a claimant. If the claimant is subsequently found and claims the award, such award and interest as required by Section 42 of this title shall be paid to the claimant by the party who is responsible for payment of the award, within sixty (60) days of the claim.

G. The Multiple Injury Trust Fund shall have authority to compromise a claim for less than the indicated amount of permanent total disability. However, any order entered after the effective date of this act awarding less than permanent total disability shall be paid only in periodic installments beginning on the date of the award. Any compromise settlement after a permanent total order entered after the effective date of this act shall be paid only in periodic installments.

H. An attorney for a claimant against the Multiple Injury Trust Fund shall be entitled to a fee equal to twenty percent (20%) of permanent disability benefits awarded. For awards entered after the effective date of this act, the attorney's fee shall be paid in periodic installments by the attorney receiving every fifth check. All benefits awarded to the attorney shall be vested. In the event a claimant, covered under this subsection, dies as a result of his or her injury before the award has been fully paid, payments shall continue to the surviving spouse for five years or upon remarriage, whichever occurs first. In no event shall payments to the surviving spouse extend beyond the period of benefits awarded to the claimant.

SECTION 173
MULTIPLE INJURY TRUST FUND - SOURCES - PAYMENTS TO FUND - ADMINISTRATIVE PENALTIES - INVESTMENTS - REFUNDS - PAYMENTS TO AND BY TREASURER - RULE-MAKING

There is hereby created, for the purposes herein declared, a Multiple Injury Trust Fund, formerly known as the Special Indemnity Fund to be derived from the following sources:

A. 1. a. As soon as practicable after January 1 of each year, the Workers' Compensation Court Administrator shall establish an assessment rate applicable to each mutual or interinsurance association, stock company, CompSource Oklahoma, or other insurance carrier writing workers' compensation insurance in this state, each employer carrying its own risk, and each group self-insurance association, for amounts for purposes of computing the assessment authorized by this section necessary to pay the annual obligations of the Multiple Injury Trust Fund determined on or before December 31 of each year by the Board of Managers of CompSource Oklahoma to be outstanding for the next calendar year, and to pay the allocations provided for in subsection I of this section. The rate shall be equal for all parties required to pay the assessment.

b. The Oklahoma Tax Commission shall assess and collect from any uninsured employer a temporary

assessment at the rate of five percent (5%) of the total compensation for permanent total disability awards, permanent partial disability awards, and death benefits paid out during each quarter of the calendar year by the employers.

2. The assessments shall be paid to the Tax Commission. Insurance carriers, self-insurers, group self-insurance associations and CompSource Oklahoma shall pay the assessment in four equal installments not later than the fifteenth day of the month following the close of each quarter of the calendar year of the assessment. Assessments shall be determined based upon gross direct written premiums, normal premiums or actual paid losses of the paying party, as applicable, during the calendar quarter for which the assessment is due. Uninsured employers shall pay the assessment not later than the fifteenth day of the month following the close of each quarter of the calendar year of the assessment. For purposes of this section, "uninsured employer" means an employer required by law to carry workers' compensation insurance but who has failed or neglected to do so. Only one-third (1/3) of assessments against insurance carriers and CompSource Oklahoma may be charged to policyholders and shall not be considered in determining whether any rate is excessive. The remaining two-thirds (2/3) of assessments against insurance carriers and CompSource Oklahoma may not be included in any rate, premium, charge, fee, assessment or other amount to be collected from a policyholder. Insurance carriers and CompSource Oklahoma shall not separately state the amount of the assessment on any invoice or billing assessment.

3. a. The assessment authorized in this section shall be determined using a rate equal to the proportion that the sum of the outstanding obligations of the Multiple Injury Trust Fund as determined pursuant to paragraph 1 of this subsection and the allocations provided for in subsection I of this section bear to the combined gross direct written premiums of all such insurers; all actual paid losses of all individual self-insureds; and the normal premium of all group self-insurance associations, for the year period from January 1 to December 31 preceding the assessment.

b. No employer or insurer shall be liable for payment of the January 15, 2002, assessment. Payments made pursuant to the January 15, 2002, assessment shall be credited to any assessment obligation of the payor pursuant to this section. Any payment made pursuant to the January 15, 2002 assessment by a payor having no assessment obligation pursuant to this section during the 2002 calendar year shall be refunded in its entirety to the payor upon application by the payor in the same time and manner as provided for the payment of rebates in Section 6101 of Title 68 of the Oklahoma Statutes.

c. For purposes of this subsection:

(1) "actual paid losses" means all medical and indemnity payments, including temporary disability, permanent disability, and death benefits, and excluding loss adjustment expenses and reserves, and

(2) "normal premium" means a standard premium less any discounts.

4. By April 15 of each year, the Insurance Commissioner, Board of Managers of CompSource Oklahoma and each individual and group self-insured shall provide the Administrator with such information as the Administrator may determine is necessary to effectuate the purposes of this section.

5. Each mutual or interinsurance association, stock company, CompSource Oklahoma, or other insurance carrier writing workers' compensation insurance in this state, and each employer carrying its own risk, including each group self-insurance association, shall be notified by the Administrator in writing of the rate for the assessment on or before May 1 of each year in which a rate is determined. The rate determined by the Administrator shall be in effect for four calendar

quarters beginning July 1 following determination by the Administrator.

6. a. No mutual or interinsurance association, stock company, CompSource Oklahoma, or other insurance carrier writing workers' compensation insurance in this state may be assessed in any year an amount greater than six percent (6%) of the gross direct written premiums of that insurer.

   b. No employer carrying its own risk may be assessed in any year an amount greater than six percent (6%) of the total actual paid losses of that individual self-insured.

   c. No group self-insurance association may be assessed in any year an amount greater than six percent (6%) of the normal premium of that group self-insurance association.

   d. If the maximum assessment does not provide in any one year an amount sufficient to make all necessary payments for obligations of the Multiple Injury Trust Fund and for the allocations provided for in subsection I of this section, the unpaid portion shall be paid as soon thereafter as funds become available.

B. The Multiple Injury Trust Fund is hereby authorized to receive and expend monies appropriated by the Legislature.

C. It shall be the duty of the Tax Commission to collect the payments provided for herein. The Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of this title.

D. Any mutual or interinsurance association, stock company, or other insurance company, which is subject to regulation by the Insurance Commissioner, or CompSource Oklahoma, failing to make payments required herein promptly and correctly, and failing to report payment of the same to the Insurance Commission within ten (10) days of payment shall be subject to administrative penalties as allowed by law, including but not limited to, a fine in the amount of Five Hundred Dollars ($500.00) or an amount equal to one percent (1%) of the unpaid amount, whichever is greater, to be paid to the Insurance Commissioner.

E. Any employer carrying its own risk, or group self-insurance association failing to make payments required herein promptly and correctly, and failing to report payment of the same to the Administrator within ten (10) days of payment shall be subject to administrative penalties as allowed by law, including but not limited to a fine in the amount of Five Hundred Dollars ($500.00) or an amount equal to one percent (1%) of the unpaid amount, whichever is greater, to be paid to the Administrator.

F. On or before the first day of April of each year, the State Treasurer shall advise the Court Administrator, the Board of Managers of CompSource Oklahoma and the Tax Commission of the amount of money held as of March 1 of that year by the State Treasurer to the credit of the Multiple Injury Trust Fund. On or before the first day of November of each year, the State Treasurer shall advise the Court Administrator, the Board of Managers of CompSource Oklahoma and the Tax Commission of the amount of money held as of October 1 of that year by the State Treasurer to the credit of the Multiple Injury Trust Fund.

G. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Multiple Injury Trust Fund may by order of the President and Chief Executive Officer of CompSource Oklahoma, with the approval of the Board of Managers of CompSource Oklahoma, be invested in or loaned on the pledge of any of the securities in which a state bank may invest the monies deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into the Multiple Injury Trust Fund. The State Treasurer shall pay by vouchers drawn on the Multiple Injury Trust

Fund for the making of such investments, when signed by the President and Chief Executive Officer of CompSource Oklahoma and approved by the Board of Managers of CompSource Oklahoma, upon delivery of such securities or evidence of indebtedness to the State Treasurer. The President and Chief Executive Officer of CompSource Oklahoma may, upon like approval of the Board of Managers of CompSource Oklahoma, sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for the Multiple Injury Trust Fund.

H. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made to the Multiple Injury Trust Fund. Refunds shall be paid from and out of the Multiple Injury Trust Fund.

I. Beginning January 1, 2002, the Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Multiple Injury Trust Fund all monies collected pursuant to the provisions of this section, less the annual sum of Two Million Five Hundred Fifty Thousand Dollars ($2,550,000.00), of which One Million Two Hundred Seventy-five Thousand Dollars ($1,275,000.00) shall be payable by the Oklahoma Tax Commission to the State Treasurer in equal monthly installments to the credit of the Department of Labor, Six Hundred Thirty-seven Thousand Five Hundred Dollars ($637,500.00) shall be payable in equal monthly installments to the credit of the Office of the Attorney General, and Six Hundred Thirty-seven Thousand Five Hundred Dollars ($637,500.00) shall be payable in equal monthly installments to the credit of the Oklahoma Department of Career and Technology Education. Monies received by the Department of Labor under this section shall be used for safety consultation and the regulation of the safety of public employees through the Occupational Safety and Health Act of 1970. Monies received by the Office of the Attorney General shall be deposited to the credit of the Attorney General's Workers' Compensation Fraud Unit Revolving Fund created pursuant to Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received by the Oklahoma Department of Career and Technology Education shall supplement other funding to the Department for purposes of implementing the provisions of subsection B of Section 414 of Title 40 of the Oklahoma Statutes. The State Treasurer shall pay out of the Multiple Injury Trust Fund only upon the order and direction of the Court of this state acting under the provisions hereof.

J. The Administrator of the Workers' Compensation Court may promulgate rules as the Administrator deems necessary to effectuate the provisions of this section and Section 174 of this title.

K. The Insurance Commissioner shall promulgate rules relating to insurers as defined in Title 36 of the Oklahoma Statutes, as the Insurance Commissioner deems necessary to effectuate the provisions of this section.

SECTION 173.1

PAYMENT OF DIVIDENDS, REBATES, OR OTHER DISTRIBUTIONS - HOW CREDITED

Any dividend, rebate, or other distribution, payable by the State Insurance Fund or any other workers' compensation insurance carrier, to a state agency policyholder shall be paid to the State Treasurer, and shall be credited as follows:

1. In the event of a failure of the Multiple Injury Trust Fund to meet all lawful obligations, the monies shall be credited to the Multiple Injury Trust Fund and shall be used by the Multiple Injury Trust Fund to meet all lawful obligations of the Multiple Injury Trust Fund; and

2. Otherwise, all future dividends made by the State Insurance Fund or any workers' compensation insurance carrier, on behalf of state agencies, shall be deposited to the credit of the General Revenue Fund of the State Treasury.

SECTION 173.2

MEDICAL COST REDUCTION COMMITTEE - DUTY TO REDUCE CURRENT MEDICAL COSTS

A. On or before September 1, 2000, the Workers' Compensation Court Administrator shall reduce the current medical costs so as to result in a net savings system-wide of not less than four and six-tenths percent (4.6%) in accordance with recommendations of the Medical Cost Reduction Committee.

B. The Medical Cost Reduction Committee shall be composed of the following:

1. A representative designated by the Oklahoma Osteopathic Association;

2. A representative designated by the Oklahoma Medical Association;

3. Two (2) representatives designated by the Oklahoma Hospital Association, one of whom shall represent metropolitan hospitals and one of whom shall represent rural hospitals;

4. A representative designated by the Oklahoma State Chiropractic Association;

5. A representative designated by the Oklahoma Podiatric Medical Association;

6. A representative designated by the Oklahoma Pharmacists Association;

7. A representative designated by the Independent Medical Providers' Action Coalition; and

8. The Chair of the Physicians' Advisory Committee, or a designee.

C. The Medical Cost Reduction Committee shall meet no later than June 15, 2000, at a time and place agreed upon by all parties, and select a chairperson. Thereafter, all meetings shall be called by the chairperson. Each member of the Medical Cost Reduction Committee shall provide his or her own staff to assist in the work of the Committee. Members of the Committee shall not be entitled to receive any reimbursement for any expenses of any kind, incurred in the work of the Committee. If the Committee fails to submit recommendations to the Administrator by August 15, 2000, the Administrator shall reduce current medical costs as required by this section.

SECTION 173.3
AGREEMENTS BETWEEN MULTIPLE INJURY TRUST FUND AND STATE INSURANCE FUND AND REINSURERS

A. The Multiple Injury Trust Fund may enter into any agreement with the State Insurance Fund for the purpose of fulfilling all of its payment obligations, including all court orders for material increase and the accrued interest thereon, and all orders for interest on previously paid awards, upon terms acceptable to the Multiple Injury Trust Fund and the State Insurance Fund.

B. The Multiple Injury Trust Fund may enter into an agreement with any reinsurer licensed to sell reinsurance by the State Insurance Commissioner pursuant to a competitive process administered by the Director of Central Purchasing in the Department of Central Services.

SECTION 174
POLITICAL AND MUNICIPAL SUBDIVISIONS - PAYMENTS - APPROPRIATIONS

Until such time as the Board of Managers of CompSource Oklahoma, pursuant to an independent actuarial audit, has certified that there are sufficient funds to satisfy all outstanding obligations of the Multiple Injury Trust Fund, including all court orders for material increases and the accrued interest thereon, and all orders for interest on previously paid awards, every political or municipal subdivision of the state, covered by the provisions of the Workers' Compensation Act, including counties, cities, and towns, shall provide sufficient funds in its annual estimate of the needs based on the total compensation paid out or benefits or payments in lieu thereof by such political or municipal subdivision during the prior fiscal year, to pay the amount due under the Workers' Compensation Act for the use and purpose of the Multiple Injury Trust Fund and the allocations provided for in subsection H of Section 173 of this title, an amount equal to the assessment applicable to the political or municipal subdivision of the state as provided in Section 173 of this title. It shall be the duty of the excise board of each county to approve an appropriation in an amount necessary to pay such sum.

SECTION 175
ADMINISTRATION AND PROTECTION OF FUND - NOTICE OF PROCEEDINGS - STANDING - REVIEW OF AWARDS - ADMINISTRATION EXPENSES

A. CompSource Oklahoma shall be charged with the administration and protection of the Multiple Injury Trust Fund and shall be notified by the Administrator of all proceedings which may affect such fund.

B. CompSource Oklahoma shall have standing and the authority to appear in any case before the Workers' Compensation Court in which the Court is considering an award from the Multiple Injury Trust Fund.

C. Any party interested shall have a right to bring a proceeding in the Supreme Court of the State of Oklahoma to review an award of the Court affecting such Multiple Injury Trust Fund, in the same manner as is now provided by law with reference to other awards by the Court.

D. The State Treasurer shall allocate to CompSource Oklahoma out of the Multiple Injury Trust Fund, sufficient funds for administration expenses thereof in amounts to be fixed and approved by the Administrator for the Multiple Injury Trust Fund, unless rejected by the Governor and Attorney General.

SECTION 176

PARTIAL INVALIDITY

Should any section or part of this Act be held to be invalid, it shall not affect the remainder of said Act.

SECTION 177

WORKERS' COMPENSATION ADMINISTRATION FUND

A. 1. There is hereby established with the State Treasurer a Workers' Compensation Administration Fund to be used for the costs of administering the Workers' Compensation Act and for other purposes pursuant to legislative appropriation.

2. No money on deposit with the State Treasurer to the credit of the Workers' Compensation Administration Fund shall be expended except pursuant to legislative appropriation.

B. For the purpose of providing funds for the Workers' Compensation Administration Fund until July 1, 1997, and for the General Revenue Fund beginning July 1, 1997, each mutual or interinsurance association, stock company, the State Insurance Fund or other insurance carrier writing Workers' Compensation Insurance in this state or providing a workers' compensation equivalent insurance product as provided in Section 65 of this title shall pay to the Oklahoma Tax Commission a tax at a rate of one percent (1%) of all gross direct premiums written during each quarter of the calendar year for workers' compensation insurance on risks located in this state after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of each quarter of the calendar year in which such gross direct premium is collected or collectible. Contributions made by insurance carriers and the State Insurance Fund, under the provisions of this section, shall be considered for the purpose of computing workers' compensation rates.

C. When an employer is authorized to become a self-insurer, the Administrator as directed by the Court shall so notify the Oklahoma Tax Commission, giving the effective date of such authorization. The Oklahoma Tax Commission shall then assess and collect from the employers carrying their own risk a tax at the rate of two percent (2%) of the total compensation for permanent total disability awards, permanent partial disability awards and death benefits paid out during each quarter of the calendar year by the employers. Such tax shall be payable by the employers and collected by the Oklahoma Tax Commission according to the provisions of this section regarding payment and collection of the tax created in subsections B, D, E and F of this section.

D. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of this Title.

E. Until July 1, 1997, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the credit of the Workers' Compensation Administration Fund all monies collected under the provisions of this section. Beginning July 1, 1997, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the credit of the General Revenue Fund all monies collected under the provisions of this section.

F. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes

shall be applicable to any payments made pursuant to this section.

G. After fiscal year 1997 appropriations have been satisfied, any monies remaining in the Workers' Compensation Administration Fund shall be transferred to the General Revenue Fund.

SECTION 178
VERIFICATION OF MATTERS FILED WITH ADMINISTRATOR

Any form, claim, answer or report to be filed by any person with the Administrator under the Workers' Compensation Act shall contain or be verified by a written declaration that such form, claim, answer or report is true and made under the penalty of perjury.

SECTION 179
PROSECUTION OF VIOLATIONS OF CERTAIN SECTIONS

Prosecution of violations of the provisions of Sections 61 and 102 of Title 85 of the Oklahoma Statutes shall be the duty of the district attorney in the district wherein the notices, contracts and reports referred to are to be filed.

SECTION 180
NO ADDITIONAL WAIVERS

No additional waivers, as set forth in Section 47.1 of Title 85 of the Oklahoma Statutes, shall be permitted after the effective date of the Workers' Compensation Act.

SECTION 201
OVERCHARGES - REVIEW OF MEDICAL PRACTICES - NOTICE AND HEARING

A. A health care provider who knowingly charges more for treatment under workers' compensation than that normally charged for similar treatment to a payor outside the workers' compensation system, except for mandated or negotiated charges, shall be subject to penalties prescribed in this section.

B. The Administrator shall adopt rules to establish a system of review of medical practices of health care providers through the workers' compensation system to evaluate on an aggregate basis the quantity and quality of treatment, charges and evaluations of permanent impairment by such providers. The Administrator may refer charges of abusive practices by health care providers under the workers' compensation system to the Physician Advisory Committee for review and recommendation. The findings and recommendations of the Committee shall be only advisory to the Administrator and shall not be binding or conclusive upon him. If the Administrator determines that a health care provider has, on an aggregate basis, established a pattern of over or under treating, failing to adhere to the AMA Guides or modifications thereto when evaluating permanent impairment, or overcharging, the Administrator shall impose administrative penalties for abusive practices and may waive payment for medical services or evaluations of permanent impairment of the health care provider rendered under the Workers' Compensation Act, Section 1, et seq. Of this title, for not to exceed five (5) years. A pattern of abusive practices shall include, but not be limited to, a pattern of referral to a medical facility for treatment found to be in excess of treatment guidelines adopted by the Administrator under Section 201.1 of this title. Physicians providing treatment under the Workers' Compensation Act shall disclose to the Administrator of the Workers' Compensation Court, on a form prescribed by the Administrator, any ownership or interest in any health care facility that is not the physician's primary place of business. Such disclosure shall include, but not be limited to, any employee leasing arrangement between the physician and any health care facility that is not the physician's primary place of business.

C. If the Administrator determines that there is a reasonable likelihood that a violation has occurred, the Administrator shall notify the health care provider, by certified mail, return receipt requested, delivery restricted. This notice shall contain the following:

1. The substance of the alleged violation;

2. The amount of any fees, fines, penalties and costs which may be imposed if the provider is found guilty or fails to respond; and

3. The date that a response must be made or a hearing requested.

D. The provider shall file a response to the allegations or request a hearing within twenty (20)

days after receipt of the notice required by subsection C of this section.

E. Upon receipt of the response or request for hearing, the Administrator shall set a date, time and place for hearing which shall be not less than ten (10) nor more than thirty (30) days after receipt of the request for hearing. The Administrator shall notify all interested parties of the hearing by first-class mail. This notice shall include the following:

1. The date, time and place of such hearing;

2. A brief description of the procedures to be followed; and

3. A statement that the health care provider may appear, may be represented by counsel, and may present witnesses and testimony.

F. The Administrator shall, within thirty (30) days after completion of the proceedings, make written findings of fact and conclusions of law which shall be sent to the health care provider by first-class mail together with a notice which shall contain the following:

1. A statement that a health care provider aggrieved by the decision of the Administrator shall have ten (10) days after the decision is filed within which to request a hearing before a judge of the Workers' Compensation Court to determine the propriety of the Administrator's decision; and that the order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court; and

2. Directions for remitting the penalty, if any.

SECTION 201.1
PHYSICIAN ADVISORY COMMITTEE

A. 1. There is hereby created a Physician Advisory Committee comprised of nine (9) members to be appointed as follows:

a. the Governor shall appoint three members, one of whom shall be licensed in this state as a doctor of medicine and surgery, one of whom shall be engaged in the practice of family medicine in a rural community of the state, and one of whom shall be an osteopathic physician,

b. the President Pro Tempore of the Senate shall appoint three members, one of whom shall be licensed in this state as a doctor of medicine and surgery, one of whom shall be licensed in this state either as a doctor of medicine or a doctor of osteopathy and shall be engaged in the practice of occupational medicine, and one of whom shall be licensed in this state as a podiatric physician,

c. the Speaker of the House of Representatives shall appoint three members, one of whom shall be licensed in this state as an osteopathic physician, one of whom shall be licensed in this state either as a doctor of medicine or a doctor of osteopathy, and one of whom shall be licensed in this state as a chiropractic physician.

2. a. To fill the positions for which the term of office expires on January 1, 1996, the Governor shall appoint a resident of the Fifth Congressional District, the President Pro Tempore of the Senate shall appoint a resident of the First Congressional District and the Speaker of the House of Representatives shall appoint a resident of the Second Congressional District.

b. To fill the positions for which the term of office expires on January 1, 1997, the Governor shall appoint a resident of the Sixth Congressional District, the President Pro Tempore of the Senate shall appoint a resident of the Third Congressional District and the Speaker of the House of Representatives shall appoint a resident of the Fourth Congressional District.

c. To fill the positions for which the term of office expires on January 1, 1998, the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint residents of the state at large.

d. Thereafter, appointments shall be made from the Congressional District numbered the same as the district from which the original appointment was made pursuant to this paragraph, if a Congressional District so numbered exists. When congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments

that were to be made from a numbered Congressional District which no longer exists shall be appointed from the state at large.

e. Effective July 1, 2005, all members of the Physicians Advisory Committee shall be subject to reappointment regardless of their appointment date, with any new appointee to serve out the remainder of the unexpired term of the committee member so replaced.

B. The Committee shall:

1. Assist and advise the Administrator of the Workers' Compensation Court regarding utilization review as it relates to the medical practice and treatment of work-related injuries. Such utilization review shall include a review of reasonable and necessary treatment; abusive practices; needless treatments, testing, or procedures; or a pattern of billing in excess of or in violation of the Schedule of Medical Fees. The Physician Advisory Committee shall review and make findings and recommendations to the Administrator of the Workers' Compensation Court with respect to charges of inappropriate or unnecessary treatment or procedures, abusive practices, or excessive billing disclosed through utilization review.

2. Assist the Administrator of the Workers' Compensation Court in reviewing medical practices of health care providers, including evaluations of permanent impairment provided by health care providers, as provided for in Section 201 of this title. The Committee shall review and make findings and recommendations to the Administrator with respect to charges of abusive practices by health care providers providing medical services or evaluations of permanent impairment through the workers' compensation system.

3. After public hearing, review and make recommendations for acceptable deviations from the American Medical Association's "Guides to the Evaluation of Permanent Impairment" using appropriate and scientifically valid data. Those recommendations may be adopted, in part or in whole, by the Administrator to be used as provided for in paragraph 11 of Section 3 and Section 22 of this title;

4. After public hearing, review and make recommendations for an alternative method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Appropriate and scientific data shall be considered. The alternative method or system to evaluate permanent impairment may be adopted, in part or in whole, by the Administrator to be used as provided for in paragraph 11 of section 3 and Section 22 of this title. Revisions, deviations and alternatives to the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall become effective as provided in paragraph 11 of Section 3 and Section 22 of this title;

5. After public hearing, adopt treatment guidelines and protocols for treatment of injuries, including, but not limited to, injuries to the hand, wrist, back, knee, neck and shoulder and utilization controls for all treatments, including, but not limited to, x-ray and imaging technology for diagnostic purposes, for adoption by the Administrator. Treatment guidelines and protocols shall be based upon nationally accepted practice standards and shall indicate when surgery is indicated and the appropriate surgical procedure for the condition. Among the standards that must be considered are the Occupational Medicine Practice Guidelines promulgated by the American College of Occupational and Environmental Medicine. Compliance with treatment guidelines shall be mandatory and an employer or insurer for an employer shall not be required to pay for treatment which is not in compliance with the guidelines, unless prior authorization is received. If an employer or insurer for an employer refuses to give such prior authorization, the employee may request the case be reviewed by an independent medical examiner pursuant to the provisions of subsection B of Section 17 of this title. Provided, however, if the employer and employee are unable to agree on the appointment of an independent medical examiner for prior authorization purposes, the Court shall randomly select an independent medical examiner within seven (7) days of receipt of a written request by the employee. The independent medical examiner shall review the medical records of the employee, examine the employee, or both, as necessary to render an opinion as to whether prior authorization should be given. If prior authorization is granted, the employer shall pay the costs of the independent medical examiner subject to limits established by the Administrator. If prior authorization is denied, the employee shall pay the costs of the independent medical examiner subject to the limits established by the Administrator;

6. After public hearing, adopt guidelines for the prescription and dispensing of any controlled substance included in Schedule II of the Uniform Controlled Dangerous Substances Act;

7. Review utilization on cases or of providers when requested by any employer, injured employee or insurer. The Committee may issue a public or private censure to any provider for utilization which is excessive or inadequate, or recommend the Court order treatment within the treatment guidelines;

8. Provide general recommendations to the judges of the Workers' Compensation Court on the issues of injury causation and apportionment;

9. Conduct educational seminars for the judges of the Workers' Compensation Court, employers, employees, and other interested parties;

10. Assist the judges of the Workers' Compensation Court in accessing medical information from scientific literature; and

11. Report its progress annually to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

C. The term of office for initial appointees shall expire March 1, 1994. Thereafter, successors in office shall serve as follows:

1. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, shall expire on January 1, 1996;

2. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, shall expire on January 1, 1997;

3. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, shall expire on January 1, 1998;

4. Thereafter, successors in office shall be appointed for a three-year term. Members shall be eligible to succeed themselves in office; and

5. Any person appointed to fill a vacancy shall be appointed for the unexpired portion of the term.

D. Members of the Physician Advisory Committee shall receive no compensation for serving on the Committee but shall be reimbursed by the Workers' Compensation Court for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. Meetings of the Physician Advisory Committee shall be called by the Administrator but held at least quarterly. The presence of a simple majority of the members constitutes a quorum. No action shall be taken by the Physician Advisory Committee without the affirmative vote of at least a simple majority of the members.

F. The Administrator shall provide office supplies and personnel of the Workers' Compensation Court to assist the Committee in the performance of its duties.

G. Upon written request, the State Insurance Commissioner, CompSource Oklahoma, and every approved self-insured employer in Oklahoma shall provide the Committee with data necessary to the performance of its duties.

H. Any health care provider acting in good faith and within the scope of the provider's duties as a member of the Physician Advisory Committee shall be immune from civil liability for making any report or other information available to the judges of the Workers' Compensation Court or to the Administrator of the Workers' Compensation Court or for assisting in the origination, investigation, or preparation of the report or other information so provided.

SECTION 201.2

STRAIN AND SPRAIN INJURIES - LEGISLATIVE FINDINGS - RECOMMENDATIONS OF PHYSICIAN ADVISORY COMMITTEE

The Legislature hereby recognizes that strain and sprain injuries present difficulties in determining whether some such injuries constitute permanent impairment. The Legislature further recognizes that the Physician Advisory Committee, because it is composed of medical professionals, is the appropriate body to examine this problem

and develop potential solutions. Therefore, the Legislature directs the Physician Advisory Committee to develop recommendations for evaluating permanent impairment for sprain or strain injuries should the Committee find that the current evaluation process is unfair or in need of change. The recommendations, if any, of the Physician Advisory Committee shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor no later than February 1, 1998.

SECTION 203
DISPUTES BETWEEN TWO OR MORE CARRIERS OR EMPLOYERS

A. Whenever two or more carriers disagree as to which carrier shall be liable for the continuing health care expenses of an employee, the Court may order one of the carriers to start paying for health care costs immediately. The decision of the Court to choose one carrier over another to pay for the medical treatment of an employee shall not be appealable until the Court's final order as to the disability of the employee.

B. The Court shall promulgate rules for expedited hearings in cases involving carrier disputes over the need for immediate medical care.

C. The carrier in the final order who is liable on the risk for the injury shall immediately reimburse the other carrier for medical monies expended upon proper proof of payment.

D. In the event that two or more insurance carriers or employers disagree as to which entity is liable for the payment of temporary disability benefits, the Court shall determine which carrier or employer is liable and order reimbursements as determined appropriate.

E. In the event temporary benefits are overpaid by any carrier or employer, the Court shall award a credit against any subsequent order for permanent disability in favor of the carrier or employer, subject to Section 41.1 of this title.

F. The Court shall have authority to require an employer and an insurance carrier to reimburse other employers and insurance carriers for benefits paid pursuant to the Workers' Compensation Act in appropriate cases.

SECTION 211
PERMISSION TO EXAMINE OR INSPECT RECORDS - SUBPOENAS AND OTHER PROCESS - EVIDENTIARY PRIVILEGES

A. Every employer and every employee subject to the provisions of the Workers' Compensation Act, Section 1 et seq. of this title, upon filing a notice of injury, accidental injury, death, occupational disease, or claim for benefits from the Multiple Injury Trust Fund, shall give written permission for the Administrator of the Workers' Compensation Court or a designee, the Insurance Commissioner or a designee, the Attorney General or a designee or a district attorney or a designee to examine all records relating to the notice, any matter contained in the notice, and any matter relating to the notice.

B. Written permission given pursuant to this section shall constitute authorization for access to medical records pursuant to Section 19 of Title 76 of the Oklahoma Statutes.

C. In carrying out the responsibilities given to the Workers' Compensation Fraud Unit, the Attorney General or designee may use subpoenas or other process in aid of investigations and prosecutions and may take possession of records subject to examination pursuant to this section by subpoena. The Attorney General shall supply copies of the records obtained which are necessary to the continuation of normal business operations by the person maintaining the records or may require the person maintaining the records to provide copies as they are kept in the usual course of business.

D. Subpoenas ad testificandum or duces tecum requested by the Attorney General or designee pursuant to subsection C of this section shall be issued by the district court in the county of the residence of the person to whom the subpoena is directed, in the county where the records are located or in the county where a person is to produce records or appear and be sworn. Subpoenas issued pursuant to this section may be served by the Attorney General, any peace officer or any competent person over eighteen (18) years of age, and may require attendance or production at any place in this state. Service may be made by mail and may be accomplished by mailing a copy thereof by certified mail with return receipt

requested and delivery restricted to the person named in the subpoena. Proof of service shall be made upon affidavit, and if made by mail, a copy of the return receipt shall be attached. A refusal to obey such subpoena, or willful failure to appear, be sworn, testify or produce records at the place and time specified shall constitute contempt and shall be enforced by the district court of the county where issued.

E. Nothing in this section shall be construed to waive, limit or impair any evidentiary privilege recognized by law.

F. The Workers' Compensation Court shall include a statement on forms for notices and instructions to employers and employees that the permission required by this section must be given at the time of filing a notice specified in subsection A of this section.

G. As used in this section, "records" include, but are not limited to, anything for which a request to produce may be served pursuant to Section 3234 of Title 12 of the Oklahoma Statutes.

Miscellaneous Provisions Pertaining to Work Related Injuries

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Miscellaneous Provisions Pertaining to Work Related Injuries

This list is not intended to be exhaustive. It is recommended that the text of each statute or Constitutional provision be referred to for specific provisions.

Miscellaneous Provisions Pertaining to Work Related Injuries			
Title Number	**Title Description**	**Section Number**	**Section Description**
Article 23	State Constitution	7	Right of Action - Amount of Recovery - Exclusiveness of Remedy Under Workers' Compensation Law
11	Cities and Towns	43-109.2	Verification of Insurance or Exemption Verification Documentation
11	Cities and Towns	49-110	Certificates and Other Evidence of Disability - Disability Resulting from Heart Disease - Injury to the Respiratory System or Cancer -Presumptions - Review of Medical Records *(firefighters)*
11	Cities and Towns	49-111	Temporary Sickness or Disability *(firefighters)*
11	Cities and Towns	50-116.1	Sickness or Temporary Disability -Continuance of Salary *(police officers)*
12	Civil Procedure	12-1651	Declaratory judgments - Determination of rights, status or other legal relations - Exceptions
19	Counties and County Officers	167	Blanket Bond *(workers' compensation coverage for reserve deputy sheriffs)*
21	Crimes and Punishments	591	Solicitations of Workers' Compensation Case Referrals - Payment in Consideration for Employment of Attorney to Handle Claim - Acting as Agent, Runner, Capper or Steerer
21	Crimes and Punishments	592	Solicitations to Provide Workers' Compensation Medical Services - Payment in Consideration for Employment of Medical Provider Acting as Agent, Runner, Capper or Steerer for Medical Provider
21	Crimes and Punishments	650.6	Penalty for Battery or Assault and Battery Upon Any Officer of the Court
21	Crimes and Punishments	1663	Workers' Compensation Fraud
22	Criminal Procedure	152	Limitations in General *(workers' compensation fraud)*
36	Insurance	619.2	Workers' Compensation Fraud Unit of Attorney General - Notification of Certain Violations

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Miscellaneous Provisions Pertaining to Work Related Injuries			
Title Number	**Title Description**	**Section Number**	**Section Description**
36	Insurance	924.4	Affidavit of Exempt Status Under the Workers' Compensation Act
36	Insurance	924.5	Penalties - Affidavit of Exempt Status Under the Workers' Compensation Act
36	Insurance	3637	Exceptions *(motor carriers)*
36	Insurance	6041	Payments - How Made
36	Insurance	6701	Workers' Compensation Providers -Obligation to Provide Workplace Safety Services - Notice to Policyholders
36	Insurance	6803	Coverage of Telemedicine Services
40	Labor	2-203	Claim *(unemployment benefits)*
40	Labor	418	Payments to Commission - Refunds -Collection of Payments - Disposition of Funds *(Special Occupational Health and Safety Tax)*
40	Labor	554	Drug or Alcohol Testing by Employers - Restrictions
42	Liens	43	Hospital Liens in Personal Injury Cases - Priority - Exception
42	Liens	46	Physician's Lien
42	Liens	49	Ambulance Service Provider Liens
43	Marriage and Family	135	Lien for Arrearage in Child Support Payments
56	Poor Persons	237B	Insurance Intercept System For Purposes of Child Support Enforcement
57	Prisons and Reformatories	227	Application - Exemption from Workers' Compensation Act - Liability for Injuries
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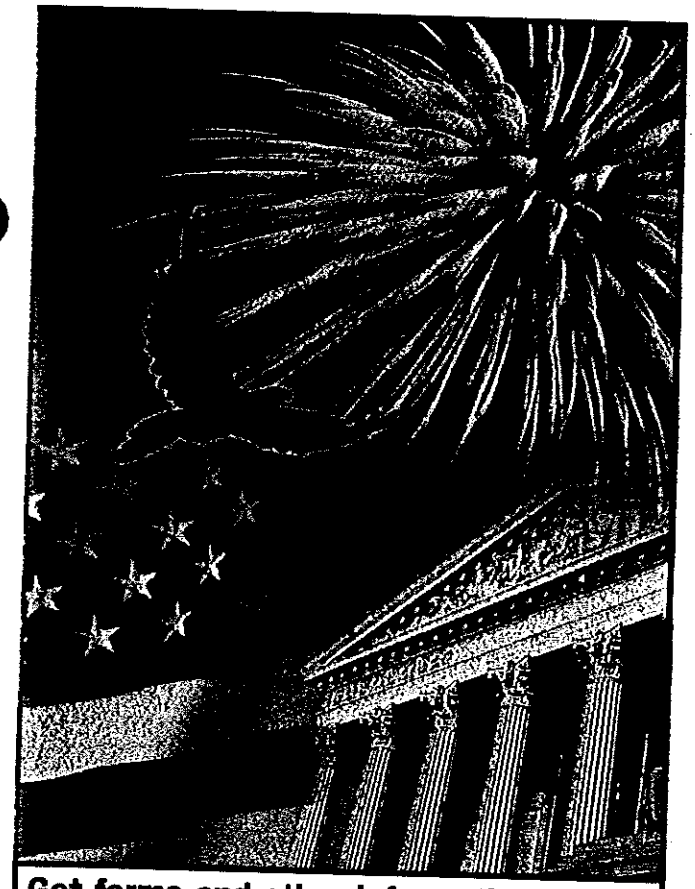
For use in **2010**



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What's New

COBRA premium assistance credit extended. The credit for COBRA premium assistance payments has been extended. It now applies to premiums paid for employees terminated before March 1, 2010, and to premiums paid for 15 months. See COBRA premium assistance credit on page 7.

Jan 08, 2010

Employers can choose to file Forms 941 instead of Form 944 for 2010. Beginning with tax year 2010, employers that would otherwise be required to file Form 944 can notify the IRS if they want to file quarterly Form 941 instead of annual Form 944. See Revenue Procedure 2009-51 for more information.

Verifying social security numbers. Starting in fall 2009, the Social Security Administration (SSA) will no longer manually verify Social Security numbers (SSNs) over the telephone. SSA now offers an automated telephone service, Telephone Number Employer Verification (TNEV), that lets employers and authorized reporting agents verify up to 10 employee names and SSNs. For more information, see Verification of social security numbers, in section 4.

Withholding income taxes on the wages of nonresident alien employees. A new procedure applies to figure the amount of income tax to withhold from the wages of nonresident alien employees for wages paid in 2010. See *Withholding income taxes on the wages of nonresident alien employees* in section 9.

Optional additional withholding adjustment for Pensions. An optional procedure and additional withholding tables are provided for figuring the amount of income tax to withhold from pension payments.

Social security and Medicare tax for 2010. Do not withhold social security tax after an employee reaches $106,800 in social security wages, which remains unchanged from 2009. There is no limit on the amount of wages subject to Medicare tax. Social security and Medicare taxes apply to the wages of household workers you pay $1,700 or more in cash. Social security and Medicare taxes apply to election workers who are paid $1,500 or more.

Calendar

The following is a list of important dates. Also see Publication 509, Tax Calendars.

TIP *If any date shown below for filing a return, furnishing a form, or depositing taxes falls on a Saturday, Sunday, or federal holiday, use the next business day. A statewide legal holiday delays a filing due date only if the IRS office where you are required to file is located in that state. For any due date, you will meet the "file" or "furnish" requirement if the envelope containing the return or form is properly addressed, contains sufficient postage, and is postmarked by the U.S. Postal Service on or before the due date, or sent by an IRS-designated private delivery service on or before the due date. See* Private Delivery Services *on page 5 for more information.*

By January 31

Furnish Forms 1099 and W-2. Furnish each employee a completed Form W-2, Wage and Tax Statement. Furnish each other payee a completed Form 1099 (for example, Form 1099-MISC, Miscellaneous Income).

File Form 941 or Form 944. File Form 941, Employer's QUARTERLY Federal Tax Return, for the fourth quarter of the previous calendar year and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter is less than $2,500. File Form 944, Employer's ANNUAL Federal Tax Return, for the previous calendar year instead of Form 941 if the IRS has notified you in writing to file Form 944 and pay any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 944 if your total tax liability for the year is less than $2,500. For additional rules on when you can pay your taxes with your return, see *Payment with return* on page 20. If you timely deposited all taxes when due, you have 10 additional calendar days from the due date above to file the appropriate return.

File Form 940. File Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. However, if you deposited all of the FUTA tax when due, you have 10 additional calendar days to file.

File Form 945. File Form 945, Annual Return of Withheld Federal Income Tax, to report any nonpayroll income tax withheld in 2008. If you deposited all taxes when due, you have 10 additional calendar days to file. See *Nonpayroll Income Tax Withholding* on page 4 for more information.

By February 15

Request a new Form W-4 from exempt employees. Ask for a new Form W-4, Employee's Withholding Allowance Certificate, from each employee who claimed exemption from income tax withholding last year.

On February 16

Exempt Forms W-4 expire. Any Form W-4 previously given to you claiming exemption from withholding has expired. Begin withholding for any employee who previously claimed exemption from withholding, but has not given you a new Form W-4 for the current year. If the employee does not give you a new Form W-4, withhold tax as if he or she is single, with zero withholding allowances. See section 9 for more information. However, if you have an earlier Form W-4 for this employee that is valid, withhold based on the earlier Form W-4.

By February 28

File paper Forms 1099 and 1096. File Copy A of all paper Forms 1099 with Form 1096, Annual Summary and Transmittal of U.S. Information Returns, with the IRS. For electronically filed returns, see *By March 31* below.

File paper Forms W-2 and W-3. File Copy A of all paper Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements, with the Social Security Administration (SSA). For electronically filed returns, see *By March 31* below.

File paper Form 8027. File paper Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, with the IRS. See section 6. For electronically filed returns, see *By March 31* next.

By March 31

File electronic Forms 1099, 8027, and W-2. File electronic Forms 1099 and 8027 with the IRS. File electronic Forms W-2 with the SSA. For information on reporting Form W-2 information to the SSA electronically, visit the Social Security Administration's Employer W-2 Filing Instructions & Information webpage at *www.socialsecurity.gov/employer*. For information on filing information returns electronically with the IRS, see Publication 1220, Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically, and Publication 1239, Specifications for Filing Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips Electronically.

By April 30, July 31, October 31, and January 31

Deposit FUTA taxes. Deposit federal unemployment (FUTA) tax due if it is more than $500.

File Form 941. File Form 941 and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter is less than $2,500. If you timely deposited all taxes when due, you have 10 additional calendar days from the due dates above to file the return.

Before December 1

New Forms W-4. Remind employees to submit a new Form W-4 if their withholding allowances have changed or will change for the next year.

On December 31

Form W-5 expires. Form W-5, Earned Income Credit Advance Payment Certificate, expires each year on December 31. Eligible employees who want to receive advance payments of the earned income credit next year must give you a new Form W-5.

Reminders

Electronic Filing and Payment

Now, more than ever before, businesses can enjoy the benefits of filing and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient programs to make filing and payment easier.

Spend less time and worry on taxes and more time running your business. Use *e-file* and the Electronic Federal Tax Payment System (EFTPS) to your benefit.

- For *e-file*, visit *www.irs.gov* for additional information.
- For EFTPS, visit *www.eftps.gov* or call EFTPS Customer Service at 1-800-555-4477.
- For electronic filing of Forms W-2, visit *www.socialsecurity.gov/employer*.

Electronic funds withdrawal (EFW). If you file Form 940, Form 941, or Form 944 electronically, you can e-file and e-pay (electronic funds withdrawal) the balance due in a single step using tax preparation software or through a tax professional. However, **do not** use EFW to make federal tax deposits. For more information on paying your taxes using EFW, visit the IRS website at *www.irs.gov* and type *e-pay* in the search box. A fee may be charged to file electronically.

Credit and Debit Card Payments

You can use your American Express® Card, Discover® Card, MasterCard® card, Visa® card, or debit card to pay the balance due shown on Form 940, Form 941, Form 943, Form 944, and Form 945. To pay by credit or debit card, call toll-free or visit the website of any service provider listed below and follow the instructions. A convenience fee will be charged by the service provider. Fees vary between the providers. You will be told what the fee is during the transaction and you will have the option to either continue or cancel the transaction. You can also find out what the fee will be by calling the provider's toll-free automated customer service number or by visiting the provider's website shown below. You may not use a credit or debit card to pay taxes that are required to be deposited.

- RBS WorldPay, Inc.
  1-888-9-PAY-TAX™ (1-888-972-9829)
  1-877-517-4881 (Customer Service)
  www.payUSAtax.com
- Official Payments Corporation
  1-888-UPAY-TAX™ (1-888-872-9829)
  1-877-754-4420 (Customer Service)
  www.officialpayments.com
- Link2Gov Corporation
  1-888-PAY-1040™ (1-888-729-1040)
  1-888-658-5465 (Customer Service)
  www.PAY1040.com

Forms in Spanish

You can provide Formulario W-4(SP), Certificado de Exención de Retenciones del Empleado, in place of Form W-4, Employee's Withholding Allowance Certificate, to your Spanish-speaking employees. For more information, see Publicación 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas). You can also provide Formulario W-5(SP), Certificado del Pago por Adelantado del Crédito por Ingreso del Trabajo, in place of Form W-5, Earned Income Credit Advance Payment Certificate. For nonemployees, Formulario W-9(SP), Solicitud y Certificación del Número de Identificación del Contribuyente, may be used in place of Form W-9, Request for Taxpayer Identification Number and Certification.

Hiring New Employees

Eligibility for employment. You must verify each new employee is legally eligible to work in the United States. This will include completing the U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Verification. You can get the form from USCIS offices or by calling 1-800-870-3676. Contact the USCIS at 1-800-375-5283, or visit the USCIS website at *www.uscis.gov* for further information.

New hire reporting. You are required to report any new employee to a designated state new hire registry. Many states accept a copy of Form W-4 with employer information added. Visit the Office of Child Support Enforcement website at *www.acf.hhs.gov/programs/cse/newhire* for more information.

Income tax withholding. Ask each new employee to complete the 2010 Form W-4. See section 9.

Name and social security number. Record each new employee's name and number from his or her social security card. Any employee without a social security card should apply for one. See section 4.

Paying Wages, Pensions, or Annuities

Correcting Form 941 or Form 944. If you discover an error on a previously filed Form 941 or Form 944 after December 31, 2008, make the correction using new Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund, or Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund. For errors discovered before January 1, 2009, taxpayers make corrections to Forms 941 and 944 using

Form 941c that is filed with Form 941 or Form 944, or with Form 843 to claim a refund or abatement. Forms 941-X and 944-X are stand-alone forms, meaning taxpayers can file them when an error is discovered, rather than wait until the end of the quarter or year to file Form 941c with Form 941 or 944. Forms 941-X and 944-X are now used by employers to claim refunds or abatements of employment taxes, rather than Form 843. See section 13 for more information.

Income tax withholding. Withhold federal income tax from each wage payment or supplemental unemployment compensation plan benefit payment according to the employee's Form W-4 and the correct withholding table. If you have nonresident alien employees, see *Withholding income taxes on the wages of nonresident alien employees* on page 16.

Withhold from periodic **pension and annuity payments** as if the recipient is married claiming three withholding allowances, unless he or she has provided Form W-4P, Withholding Certificate for Pension or Annuity Payments, either electing no withholding or giving a different number of allowances, marital status, or an additional amount to be withheld. Do not withhold on direct rollovers from qualified plans or governmental section 457(b) plans. See section 9 and Publication 15-A, Employer's Supplemental Tax Guide. Publication 15-A includes information about withholding on pensions and annuities.

Zero wage return. If you have not filed a "final" Form 941 or Form 944, or are not a "seasonal" employer (see lines 16 and 17 of 2008 Form 941 (lines 18 and 19 of 2009 Form 941)), you must continue to file a Form 941 or Form 944 even for periods during which you paid no wages. IRS encourages you to file your "Zero Wage" Forms 941 or 944 electronically using IRS e-file at *www.irs.gov/efile*.

Information Returns

You may be required to file information returns to report certain types of payments made during the year. For example, you must file Form 1099-MISC, Miscellaneous Income, to report payments of $600 or more to persons not treated as employees (for example, independent contractors) for services performed for your trade or business. For details about filing Forms 1099 and for information about required electronic filing, see the 2010 General Instructions for Certain Information Returns (Forms 1098, 1099, 3921, 3922, 5498, and W-2G) for general information and the separate, specific instructions for each information return you file (for example, 2010 Instructions for Form 1099-MISC). Do not use Forms 1099 to report wages and other compensation you paid to employees; report these on Form W-2. See the Instructions for Forms W-2 and W-3 for details about filing Form W-2 and for information about required electronic filing. If you file 250 or more Forms 1099, you must file them electronically. If you file 250 or more Forms W-2, you must file them electronically. SSA will not accept Forms W-2 and W-3 filed on magnetic media.

Information reporting customer service site. The IRS operates the Enterprise Computing Center-Martinsburg, a centralized customer service site, to answer questions about reporting on Forms W-2, W-3, 1099, and other information returns. If you have questions related to reporting on information returns, call 1-866-455-7438 (toll free) or 304-263-8700 (toll call). The center can also be reached by email at *mccirp@irs.gov*. Call 304-267-3367 if you are a TDD/TYY user.

Nonpayroll Income Tax Withholding

Nonpayroll federal income tax withholding must be reported on Form 945, Annual Return of Withheld Federal

Employer Responsibilities: The following list provides a brief summary of your basic responsibilities. Because the individual circumstances for each employer can vary greatly, responsibilities for withholding, depositing, and reporting employment taxes can differ. Each item in this list has a page reference to a more detailed discussion in this publication.

New Employees:	Page
❑ Verify work eligibility of new employees	3
❑ Record employees' names and SSNs from Social security cards	10
❑ Ask employees for Form W-4	15
Each Payday:	
❑ Withhold federal income tax based on each employee's Form W-4	15
❑ Withhold employee's share of social security and Medicare taxes	18
❑ Include advance earned income credit payment in paycheck if employee requested it on Form W-5	19
❑ Deposit: • Withheld income tax • Withheld and employer social security taxes • Withheld and employer Medicare taxes	20
Note: *Due date of deposit generally depends on your deposit schedule (monthly or semiweekly)*	
Annually (By January 31)	
❑ File Form 944 if required (pay tax with return if not required to deposit)	26

Quarterly (By April 30, July 31, October 31, and January 31):	Page
❑ Deposit FUTA tax if undeposited amount is over $500	31
❑ File Form 941 (pay tax with return if not required to deposit)	26
Annually (see *Calendar* for due dates):	
❑ Remind employees to submit a new Form W-4 if they need to change their withholding	15
❑ Ask for a new Form W-4 from employees claiming exemption from income tax withholding	16
❑ Reconcile Forms 941 (or Form 944) with Forms W-2 and W-3	27
❑ Furnish each employee a Form W-2	2
❑ File Copy A of Forms W-2 and the transmittal Form W-3 with the SSA	2
❑ Furnish each other payee a Form 1099 (for example, Form 1099-MISC, Miscellaneous Income)	2
❑ File Forms 1099 and the transmittal Form 1096	2
❑ File Form 940	31
File Form 945 for any nonpayroll income tax withholding	2

Income Tax. Form 945 is an annual tax return and the return for 2009 is due February 1, 2010. Separate deposits are required for payroll (Form 941 or Form 944) and nonpayroll (Form 945) withholding. Nonpayroll items include:

- Pensions (including distributions from governmental section 457(b) plans), annuities, and IRAs.
- Military retirement.
- Gambling winnings.
- Indian gaming profits.
- Certain government payments subject to voluntary withholding.
- Payments subject to backup withholding.

For details on depositing and reporting nonpayroll income tax withholding, see the Instructions for Form 945.

All income tax withholding reported on Forms 1099 or Form W-2G must also be reported on Form 945. All income tax withholding reported on Form W-2 must be reported on Form 941, Form 943, Form 944, or Schedule H (Form 1040).

Distributions from nonqualified pension plans and deferred compensation plans. Because distributions to participants from some nonqualified pension plans and deferred compensation plans (including section 457(b) plans of tax-exempt organizations) are treated as wages and are reported on Form W-2, income tax withheld must be reported on Form 941 or Form 944, not on Form 945. However, distributions from such plans to a beneficiary or estate of a deceased employee are not wages and are reported on Forms 1099-R; income tax withheld must be reported on Form 945.

Backup withholding. You generally must withhold 28% of certain taxable payments if the payee fails to furnish you with his or her correct taxpayer identification number (TIN). This withholding is referred to as "backup withholding."

Payments subject to backup withholding include interest, dividends, patronage dividends, rents, royalties, commissions, nonemployee compensation, and certain other payments you make in the course of your trade or business. In addition, transactions by brokers and barter exchanges and certain payments made by fishing boat operators are subject to backup withholding.

CAUTION *Backup withholding does not apply to wages, pensions, annuities, IRAs (including simplified employee pension (SEP) and SIMPLE retirement plans), section 404(k) distributions from an employee stock ownership plan (ESOP), medical savings accounts, health savings accounts, long-term-care benefits, or real estate transactions.*

You can use Form W-9 or Formulario W-9(SP) to request payees to furnish a TIN and to certify the number furnished is correct. You can also use Form W-9 or Formulario W-9(SP) to get certifications from payees they are not subject to backup withholding or they are exempt from backup withholding. The Instructions for the Requester of Form W-9 or Formulario W-9(SP) includes a list of types of payees who are exempt from backup withholding. For more information, see Publication 1281, Backup Withholding for Missing and Incorrect Name/TIN(s).

Recordkeeping

Keep all records of employment taxes for at least 4 years. These should be available for IRS review. Your records should include:

- Your employer identification number (EIN),
- Amounts and dates of all wage, annuity, and pension payments,
- Amounts of tips reported to you by your employees,
- Records of allocated tips,
- The fair market value of in-kind wages paid,
- Names, addresses, social security numbers, and occupations of employees and recipients,
- Any employee copies of Forms W-2 and W-2c returned to you as undeliverable,
- Dates of employment for each employee,
- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them,
- Copies of employees' and recipients' income tax withholding allowance certificates (Forms W-4, W-4P, W-4(SP), W-4S, and W-4V),
- Copies of employees' Earned Income Credit Advance Payment Certificates (Forms W-5 and W-5(SP)),
- Dates and amounts of tax deposits you made and acknowledgment numbers for deposits made by EFTPS,
- Copies of returns filed, including 941TeleFile Tax Records (discontinued after June 2005) and confirmation numbers, and
- Records of fringe benefits and expense reimbursements provided to your employees, including substantiation.

Change of Address

To notify the IRS of a new business mailing address or business location, file Form 8822, Change of Address. Do not mail Form 8822 with your employment tax return. For information on how to change your address for deposit coupons, see *Making deposits with FTD coupons* in section 11.

Private Delivery Services

You can use certain private delivery services designated by the IRS to mail tax returns and payments. The list includes only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

Your private delivery service can tell you how to get written proof of the mailing date.

CAUTION *Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

Telephone Help

Additional employment tax information. Visit the IRS website at *www.irs.gov/businesses* and click on the *Employment Taxes* link.

Tax questions. You can call the IRS Business and Specialty Tax Line with your employment tax questions at 1-800-829-4933.

Help for people with disabilities. Telephone help is available using TTY/TDD equipment. You may call 1-800-829-4059 with any tax question or to order forms and publications. You may also use this number for assistance with unresolved tax problems.

Recorded tax information (TeleTax). The IRS TeleTax service provides recorded tax information on topics that answer many individual and business federal tax questions. You can listen to up to three topics on each call you make. Touch-Tone service is available 24 hours a day, 7 days a week. TeleTax topics are also available on the IRS website at *www.irs.gov/taxtopics*.

A list of employment tax topics is provided below. Select, by number, the topic you want to hear and call 1-800-829-4477. For the directory of all topics, select Topic 123.

Teletax Topics

Topic No.	Subject (These topics are available in Spanish)
752	Form W-2—Where, When, and How to File (Dónde, Cuándo y Cómo Presentar El La Formulario W-2)
753	Form W-4—Employee's Withholding Allowance Certificate (Formulario W-4(SP)—Certificado de Excensión de Retenciones del Empleado)
754	Form W-5—Earned Income Credit Advance Payment Certificate (Formulario W-5(SP)—Certificado del Pago por Adelantado del Crédito por Ingreso del Trabajo)
755	Employer Identification Number (EIN)—How to Apply (Como Solicitar Un Número de Identificación Patronal (EIN))
756	Employment Taxes for Household Employees (Impuestos Patronales para Empleados Domésticos)
757	Form 941 and Form 944—Deposit Requirements (Formulario 941 and Formulario 944—Requisitos de Depósito)
758	Form 941—Employer's QUARTERLY Federal Tax Return and Form 944—Employer's ANNUAL Federal Tax Return (Formulario 941-PR—Planilla para la Declaración Federal TRIMESTRAL del Patrono) (Formulario 944-PR-Planilla para la Declaración Federal ANUAL del Patrono)
759	Form 940—Deposit Requirements (Formulario 940—Requisitos de Depósito)
760	Form 940—Employer's Annual Federal Unemployment (FUTA) Tax Return (Formulario 940-PR—Planilla para la Declaración Federal Anual del Patrono de la Contibución Federal para el Desempleo)
761	Tips—Withholding and Reporting (Propinas—Declaración y Retención)
762	Independent Contractor vs. Employee (Contratista Independiente vs. Empleado)

Ordering Employer Tax Products

You can order employer tax products and information returns online at *www.irs.gov/businesses*. To order 2009 and 2010 forms, select "Online Ordering for Information Returns and Employer Returns." You may also order employer tax products and information returns by calling 1-800-829-3676.

Instead of ordering paper Forms W-2 and W-3, consider filing them electronically using the Social Security Administration's (SSA) free e-file service. Visit SSA's Employer W-2 Filing Instructions & Information website at *www.socialsecurity.gov/employer*, select "Electronically File Your W-2s," and provide registration information. You will be able to create and file "fill-in" versions of Forms W-2 with SSA and can print out completed copies of Forms W-2 for filing with state and local governments, for distribution to your employees, and for your records. Form W-3 will be created for you based on your Forms W-2.

Contacting Your Taxpayer Advocate

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe an IRS system or procedure is not working as it should.

You can contact TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059 to see if you are eligible for assistance. You can also call or write to your local taxpayer advocate, whose phone number and address are listed in your local telephone directory and in Publication 1546, Taxpayer Advocate Service – Your Voice at the IRS. You can file Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), or ask an IRS employee to complete it on your behalf. For more information, go to *www.irs.gov/advocate*.

Filing Addresses

Generally, your filing address for Forms 940, 941, 943, 944, 945, and CT-1 depends on the location of your residence or principal place of business and whether or not you included a payment with your return. There are separate filing addresses for these returns if you are a tax-exempt organization or government entity. If you are located in the United States and do not include a payment with your return, you should file at either the Cincinnati or Ogden Service Centers. See the separate instructions for Forms 940, 941, 943, 944, 945, or CT-1 for the filing addresses or "Where To File" on the IRS website at *www.irs.gov/business*.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may

appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Introduction

This publication explains your tax responsibilities as an employer. It explains the requirements for withholding, depositing, reporting, paying, and correcting employment taxes. It explains the forms you must give to your employees, those your employees must give to you, and those you must send to the IRS and SSA. This guide also has tax tables you need to figure the taxes to withhold from each employee for 2010. References to "income tax" in this guide apply only to "federal" income tax. Contact your state or local tax department to determine if their rules are different.

Additional employment tax information is available in Publication 15-A, Employer's Supplemental Tax Guide. Publication 15-A includes specialized information supplementing the basic employment tax information provided in this publication. Publication 15-B, Employer's Tax Guide to Fringe Benefits, contains information about the employment tax treatment and valuation of various types of noncash compensation.

Most employers must withhold (except FUTA), deposit, report, and pay the following employment taxes.

- Income tax.
- Social security tax.
- Medicare tax.
- Federal unemployment tax (FUTA).

There are exceptions to these requirements. See section 15, *Special Rules for Various Types of Services and Payments*. Railroad retirement taxes are explained in the instructions for Form CT-1.

Employer's liability. Employers are responsible for ensuring tax returns are filed and deposits and payments are made, even if the employer retains a third-party to perform those functions. The employer remains liable if the third party fails to perform a required action. Employers who enroll in EFTPS will be able to view EFTPS deposits and payments made on their behalf.

Federal Government employers. The information in this guide applies to federal agencies except for the rules requiring deposit of federal taxes only at Federal Reserve banks or through the FedTax option of the Government On-Line Accounting Link Systems (GOALS). See the Treasury Financial Manual (I TFM 3-4000) for more information.

State and local government employers. Payments to employees for services in the employ of state and local government employers are generally subject to federal income tax withholding but not federal unemployment (FUTA) tax. Most elected and appointed public officials of state or local governments are employees under common law rules. See chapter 3 of Publication 963, Federal-State Reference Guide. In addition, wages, with certain exceptions, are subject to social security and Medicare taxes. See section 15 of this guide for more information on the exceptions.

If an election worker is employed in another capacity with the same government entity, see Revenue Ruling 2000-6 on page 512 of Internal Revenue Bulletin 2000-6 at *www.irs.gov/pub/irs-irbs/irb00-06.pdf*.

You can get information on reporting and social security coverage from your local IRS office. If you have any questions about coverage under a section 218 (Social Security Act) agreement, contact the appropriate state official. To find your State Social Security Administrator, visit the National Conference of State Social Security Administrators website at *www.ncsssa.org*.

Disregarded entities and qualified subchapter S subsidiaries. The IRS has published final regulations section 301.7701-2(c)(2)(iv) under which QSubs and eligible single-owner disregarded entities are treated as separate entities for employment tax purposes. Under these regulations eligible single-member entities that have not elected to be taxed as corporations must report and pay employment taxes on wages paid to their employees after December 31, 2008, using the entities' own names and EINs. The disregarded entity will be responsible for its own employment tax obligations on wages paid after December 31, 2008. For wages paid before January 1, 2009, see Publication 15 (Circular E), For Use in 2008.

COBRA premium assistance credit. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health coverage at group rates. COBRA generally covers multiemployer health plans and health plans maintained by private-sector employers (other than churches) with 20 or more full and part-time employees. Parallel requirements apply to these plans under the Employee Retirement Income Security Act of 1974 (ERISA). Under the Public Health Service Act, COBRA requirements apply also to health plans covering state or local government employees. Similar requirements apply under the Federal Employees Health Benefits Program and under some state laws. For the premium assistance (or subsidy) discussed below, these requirements are all referred to as COBRA requirements.

The American Recovery and Reinvestment Act of 2009 (ARRA) allows a credit against "payroll taxes" (referred to in this publication as "employment taxes") for providing COBRA premium assistance to assistance eligible individuals. For periods of COBRA continuation coverage beginning after February 16, 2009, a group health plan must treat an assistance eligible individual as having paid the required COBRA continuation coverage premium if the individual elects COBRA coverage and pays 35% of the amount of the premium.

An assistance eligible individual is a qualified beneficiary of an employer's group health plan who is eligible for COBRA continuation coverage during the period beginning September 1, 2008, and ending December 31, 2009, due to the involuntarily termination from employment of a covered employee during the period and elects continuation COBRA coverage. The assistance for the coverage can last up to 9 months. The Department of Defense Appropriations Act of 2010 (DDAA) extended the end of the eligibility period from December 31, 2009, to February 28, 2010. DDAA also extended the period of assistance from 9 months to 15 months.

Administrators of the group health plans (or other entities) that provide or administer COBRA continuation coverage must provide notice to assistance eligible individuals of the COBRA premium assistance. Any individual who became a COBRA premium assistance eligible individual on or after October 31, 2009, must be sent a notice about the extended provisions of DDAA.

The 65% of the premium not paid by the assistance eligible individuals is reimbursed to the employer maintaining the group health plan. The reimbursement is made through a credit against the employer's employment tax liabilities. The employer takes the credit on line 12a of Form 941 or line 11a of Form 944 once the 35% of the

premium is paid by or on behalf of the assistance eligible individual. The credit is treated as a deposit made on the first day of the return period (quarter or year). In the case of a multiemployer plan, the credit is claimed by the plan, rather than the employer. In the case of an insured plan subject to state law continuation coverage requirements, the credit is claimed by the insurance company, rather than the employer.

Anyone claiming the credit for COBRA premium assistance payments must maintain the following information to support their claim, including the following.

- Information on the receipt of the assistance eligible individuals' 35% share of the premium including dates and amounts.
- In the case of an insurance plan, a copy of invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA.
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the assistance eligible individuals.
- Attestation of involuntary termination, including the date of the involuntary termination for each covered employee whose involuntary termination is the basis for eligibility for the subsidy.
- Proof of each assistance eligible individual's eligibility for COBRA coverage and the election of COBRA coverage.
- A record of the SSNs of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals.

For more information, visit the IRS website at *www.irs.gov* and enter keywords *COBRA Health Insurance Continuation Premium Subsidy.*

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions. You can email us at **taxforms@irs.gov.* (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line.

You can write to us at the following address:

Internal Revenue Service
Tax Products Coordinating Committee
SE:W:CAR:MP:T:T:SP
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

1. Employer Identification Number (EIN)

If you are required to report employment taxes or give tax statements to employees or annuitants, you need an employer identification number (EIN).

The EIN is a 9-digit number the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others who have no employees. Use your EIN on all of the items you send to the IRS and SSA. For more information, get Publication 1635, Understanding Your EIN.

If you do not have an EIN, you may apply for one online. Go to the IRS website at *www.irs.gov* and click on the *Apply for an Employer Identification Number (EIN) Online* link. You may also apply for an EIN by calling 1-800-829-4933, or you can fax or mail Form SS-4 to the IRS. Do not use a social security number (SSN) in place of an EIN.

You should have only one EIN. If you have more than one and are not sure which one to use, call 1-800-829-4933 (TTY/TDD users can call 1-800-829-4059). Give the numbers you have, the name and address to which each was assigned, and the address of your main place of business. The IRS will tell you which number to use.

If you took over another employer's business (see *Successor employer* in section 9), do not use that employer's EIN. If you have applied for an EIN but do not have your EIN by the time a return is due, write "Applied For" and the date you applied for it in the space shown for the number. See *Depositing without an EIN* in section 11 if you must make a tax deposit and you do not have an EIN.

2. Who Are Employees?

Generally, employees are defined either under common law or under statutes for certain situations. See Publication 15-A for details on statutory employees and nonemployees.

Employee status under common law. Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See Publication 15-A for more information on how to determine whether an individual providing services is an independent contractor or an employee.

Generally, people in business for themselves are not employees. For example, doctors, lawyers, veterinarians, construction contractors, and others in an independent trade in which they offer their services to the public are usually not employees. However, if the business is incorporated, corporate officers who work in the business are employees.

If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time.

Statutory employees. If someone who works for you is not an employee under the common law rules discussed above, do not withhold federal income tax from his or her pay, unless backup withholding applies. Although the following persons may not be common law employees, they may be considered employees by statute for social security, Medicare, and FUTA tax purposes under certain conditions.

- An agent (or commission) driver who delivers food, beverages (other than milk), laundry, or dry cleaning for someone else.
- A full-time life insurance salesperson who sells primarily for one company.
- A homeworker who works by guidelines of the person for whom the work is done, with materials furnished by and returned to that person or to someone that person designates.
- A traveling or city salesperson (other than an agent-driver or commission-driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for items for resale or use as supplies in the

customer's business. The customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging.

Statutory nonemployees. Direct sellers, qualified real estate agents, and certain companion sitters are, by law, considered nonemployees. They are generally treated as self-employed for all federal tax purposes, including income and employment taxes.

Treating employees as nonemployees. You will generally be liable for social security and Medicare taxes and withheld income tax if you do not deduct and withhold these taxes because you treated an employee as a nonemployee. You may be able to calculate your liability using special section 3509 rates for the employee share of social security and Medicare taxes and the federal income tax withholding. The applicable rates depend on whether you filed required Forms 1099. You cannot recover the employee share of social security, or Medicare tax, or income tax withholding from the employee if the tax is paid under section 3509. You are liable for the income tax withholding regardless of whether the employee paid income tax on the wages. You continue to owe the full employer share of social security and Medicare taxes. The employee remains liable for the employee share of social security and Medicare taxes. See Internal Revenue Code section 3509 for details. Also see the Instructions for Form 941-X.

Section 3509 rates are not available if you intentionally disregard the requirement to withhold taxes from the employee or if you withheld income taxes but not social security or Medicare taxes. Section 3509 is not available for reclassifying statutory employees. See *Statutory employees* on page 9.

If the employer issued required information returns, the section 3509 rates are:

- For social security taxes; employer rate of 6.2% plus 20% of the employee rate of 6.2%, for a total rate of 7.44% of wages.
- For Medicare taxes; employer rate of 1.45% plus 20% of the employee rate of 1.45%, for a total rate of 1.74% of wages.
- For income tax withholding, the rate is 1.5% of wages.

If the employer did not issue required information returns, the section 3509 rates are:

- For social security taxes; employer rate of 6.2% plus 40% of the employee rate of 6.2%, for a total rate of 8.68% of wages.
- For Medicare taxes; employer rate of 1.45% plus 40% of the employee rate of 1.45%, for a total rate of 2.03% of wages.
- For income tax withholding, the rate is 3.0% of wages.

Relief provisions. If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required federal tax returns, including information returns, on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. See Publication 1976, Do You Qualify for Relief Under Section 530?

IRS help. If you want the IRS to determine whether a worker is an employee, file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

3. Family Employees

Child employed by parents. Payments for the services of a child under age 18 who works for his or her parent in a trade or business are not subject to social security and Medicare taxes if the trade or business is a sole proprietorship or a partnership in which each partner is a parent of the child. If these payments are for work other than in a trade or business, such as domestic work in the parent's private home, they are not subject to social security and Medicare taxes until the child reaches age 21. However, see *Covered services of a child or spouse* below. Payments for the services of a child under age 21 who works for his or her parent, whether or not in a trade or business, are not subject to federal unemployment (FUTA) tax. Although not subject to FUTA tax, the wages of a child may be subject to income tax withholding.

One spouse employed by another. The wages for the services of an individual who works for his or her spouse in a trade or business are subject to income tax withholding and social security and Medicare taxes, but not to FUTA tax. However, the payments for services of one spouse employed by another in other than a trade or business, such as domestic service in a private home, are not subject to social security, Medicare, and FUTA taxes.

Covered services of a child or spouse. The wages for the services of a child or spouse are subject to income tax withholding as well as social security, Medicare, and FUTA taxes if he or she works for:

- A corporation, even if it is controlled by the child's parent or the individual's spouse,
- A partnership, even if the child's parent is a partner, unless each partner is a parent of the child,
- A partnership, even if the individual's spouse is a partner, or
- An estate, even if it is the estate of a deceased parent.

Parent employed by child. The payments for the services of a parent employed by his or her child in a trade or business are subject to income tax withholding and social security and Medicare taxes. Social security and Medicare taxes do not apply to payments made to a parent for services not in a trade or business, but they apply to domestic services if:

- The parent cares for a child who lives with the parent's child and the child is under age 18 or requires adult supervision for at least 4 continuous weeks in a calendar quarter due to a mental or physical condition and
- The parent's son or daughter is a widow or widower, divorced, or living with a spouse who, because of a physical or mental condition that lasts at least 4 continuous weeks, cannot care for the child during such period.

Payments made to a parent employed by his or her child are not subject to FUTA tax, regardless of the type of services provided.

4. Employee's Social Security Number (SSN)

You are required to get each employee's name and SSN and to enter them on Form W-2. This requirement also applies to resident and nonresident alien employees. You should ask your employee to show you his or her social security card. The employee may show the card if it is available. You may, but are not required to, photocopy the social security card if the employee provides it. If you do not provide the correct employee name and SSN on Form W-2, you may owe a penalty unless you have reasonable cause. See Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs, for information on the requirement to solicit the employee's SSN.

Applying for a social security card. Any employee who is legally eligible to work in the United States and does not have a social security card can get one by completing Form SS-5, Application for a Social Security Card, and submitting the necessary documentation. You can get this form at SSA offices, by calling 1-800-772-1213, or from the SSA website at *www.socialsecurity.gov/online/ss-5.html*. The employee must complete and sign Form SS-5; it cannot be filed by the employer.

Applying for a social security number. If you file Form W-2 on paper and your employee applied for an SSN but does not have one when you must file Form W-2, enter "Applied For" on the form. If you are filing electronically, enter all zeros (000-00-000) in the social security number field. When the employee receives the SSN, file Copy A of Form W-2c, Corrected Wage and Tax Statement, with the SSA to show the employee's SSN. Furnish copies B, C, and 2 of Form W-2c to the employee. Up to five Forms W-2c for each Form W-3c may now be filed per session over the Internet, with no limit on the number of sessions. For more information, visit the SSA's Employer W-2 Filing Instructions & Information webpage at *www.socialsecurity.gov/employer*. Advise your employee to correct the SSN on his or her original Form W-2.

Correctly record the employee's name and SSN. Record the name and number of each employee as they are shown on the employee's social security card. If the employee's name is not correct as shown on the card (for example, because of marriage or divorce), the employee should request a corrected card from the SSA. Continue to report the employee's wages under the old name until the employee shows you an updated social security card with the new name.

If the Social Security Administration issues the employee a replacement card after a name change, or a new card with a different social security number after a change in alien work status, file a Form W-2c to correct the name/SSN reported for the most recently filed Form W-2. It is not necessary to correct other years if the previous name and number were used for years before the most recent Form W-2.

IRS individual taxpayer identification numbers (ITINs) for aliens. Do not accept an ITIN in place of an SSN for employee identification or for work. An ITIN is only available to resident and nonresident aliens who are not eligible for U.S. employment and need identification for other tax purposes. You can identify an ITIN because it is a 9-digit number, beginning with the number "9" with either a "7" or "8" as the fourth digit and is formatted like an SSN (for example, 9NN-7N-NNNN).

CAUTION *An individual with an ITIN who later becomes eligible to work in the United States must obtain an SSN.*

Verification of social security numbers. The SSA offers employers and authorized reporting agents three methods for verifying employee SSNs. Some verification methods require registration. For more information, call 1-800-772-6270.

- **Internet.** Verify up to 10 names and numbers (per screen) online using the Social Security Number Verification Service (SSNVS) and receive immediate results, or upload batch files of up to 250,000 names and numbers and usually receive results the next business day. Visit *www.ssa.gov/bso/bsowelcome* and click on the *Verify SSNs Online* link.
- **Telephone.** Verify up to ten names and numbers with Telephone Number Employer Verification (TNEV) by calling 1-800-772-6270 or 1-800-772-1213.
- **Paper.** Verify up to 300 names and numbers by submitting a paper request. For information, see *Appendix A* in the SSNVS handbook at *www.socialsecurity.gov/employer/ssnvshandbk/appendix*.

Registering for SSNVS and TNEV. You must register online and receive authorization from your employer to use SSNVS or TNEV. To register, visit SSA's website at *www.ssa.gov/employer* and click on the *Business Services Online* link. Follow the registration instructions to obtain a user identification (ID) and password. You will need to provide the following information about yourself and your company:

- Name,
- SSN,
- Date of birth,
- Type of employer,
- Employer identification number (EIN),
- Company name, address, and telephone number and
- Email address.

When you have completed the online registration process, SSA will mail a one-time activation code to your employer. You must enter the activation code online to use SSNVS or TNEV.

5. Wages and Other Compensation

Wages subject to federal employment taxes generally include all pay you give to an employee for services performed. The pay may be in cash or in other forms. It includes salaries, vacation allowances, bonuses, commissions, and fringe benefits. It does not matter how you measure or make the payments. Amounts an employer pays as a bonus for signing or ratifying a contract in connection with the establishment of an employer-employee relationship and an amount paid to an employee for cancellation of an employment contract and relinquishment of contract rights are wages subject to social security, Medicare, and federal unemployment taxes and income tax withholding. Also, compensation paid to a former employee for services performed while still employed is wages subject to employment taxes.

More information. See section 6 for a discussion of tips and section 7 for a discussion of supplemental wages. Also, see section 15 for exceptions to the general rules for wages. Publication 15-A provides additional information on wages, including nonqualified deferred compensation, and other compensation. Publication 15-B provides information on other forms of compensation, including:

- Accident and health benefits,
- Achievement awards,
- Adoption assistance,
- Athletic facilities,
- De minimis (minimal) benefits,
- Dependent care assistance,
- Educational assistance,
- Employee discounts,
- Employee stock options,
- Group-term life insurance coverage,
- Health Savings Accounts,
- Lodging on your business premises,
- Meals,
- Moving expense reimbursements,
- No-additional-cost services,
- Retirement planning services,
- Transportation (commuting) benefits,
- Volunteer firefighter and emergency medical responder benefits,
- Tuition reduction, and
- Working condition benefits.

Employee business expense reimbursements. A reimbursement or allowance arrangement is a system by which you pay the advances, reimbursements, and charges for your employees' business expenses. How you report a reimbursement or allowance amount depends on whether you have an accountable or a nonaccountable plan. If a single payment includes both wages and an expense reimbursement, you must specify the amount of the reimbursement.

These rules apply to all ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee.

Accountable plan. To be an accountable plan, your reimbursement or allowance arrangement must require your employees to meet all three of the following rules.

1. They must have paid or incurred deductible expenses while performing services as your employees. The reimbursement or advance must be paid for the expense and must not be an amount that would have otherwise been paid by the employee.
2. They must substantiate these expenses to you within a reasonable period of time.
3. They must return any amounts in excess of substantiated expenses within a reasonable period of time.

Amounts paid under an accountable plan are not wages and are not subject to the withholding and payment of income, social security, Medicare, and federal unemployment (FUTA) taxes.

If the expenses covered by this arrangement are not substantiated (or amounts in excess of substantiated expenses are not returned within a reasonable period of time), the amount paid under the arrangement in excess of the substantiated expenses is treated as paid under a nonaccountable plan. This amount is subject to the withholding and payment of income, social security, Medicare, and FUTA taxes for the first payroll period following the end of the reasonable period of time.

A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if your employees receive their advance within 30 days of the time they incur the expenses, adequately account for the expenses within 60 days after the expenses were paid or incurred, and return any amounts in excess of expenses within 120 days after the expenses were paid or incurred. Also, it is considered reasonable if you give your employees a periodic statement (at least quarterly) that asks them to either return or adequately account for outstanding amounts and they do so within 120 days.

Nonaccountable plan. Payments to your employee for travel and other necessary expenses of your business under a nonaccountable plan are wages and are treated as supplemental wages and subject to the withholding and payment of income, social security, Medicare, and FUTA taxes. Your payments are treated as paid under a nonaccountable plan if:

- Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation,
- You advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount he or she does not use for business expenses, or
- You advance or pay an amount to your employee regardless of whether you reasonably expect the employee to have business expenses related to your business.
- You pay an amount as a reimbursement you would have otherwise paid as wages.

See section 7 for more information on supplemental wages.

Per diem or other fixed allowance. You may reimburse your employees by travel days, miles, or some other fixed allowance under the applicable revenue procedure. In these cases, your employee is considered to have accounted to you if your reimbursement does not exceed rates established by the Federal Government. The 2009 standard mileage rate for auto expenses was 55 cents per mile. The rate for 2010 is 50 cents per mile. The government per diem rates for meals and lodging in the continental United States are listed in Publication 1542, Per Diem Rates. Other than the amount of these expenses, your employees' business expenses must be substantiated (for example, the business purpose of the travel or the number of business miles driven).

If the per diem or allowance paid exceeds the amounts specified, you must report the excess amount as wages. This excess amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. Show the amount equal to the specified amount (for example, the nontaxable portion) in box 12 of Form W-2 using code L.

Wages not paid in money. If in the course of your trade or business you pay your employees in a medium that is neither cash nor a readily negotiable instrument, such as a check, you are said to pay them "in kind." Payments in kind may be in the form of goods, lodging, food, clothing, or

services. Generally, the fair market value of such payments at the time they are provided is subject to federal income tax withholding and social security, Medicare, and FUTA taxes.

However, noncash payments for household work, agricultural labor, and service not in the employer's trade or business are exempt from social security, Medicare, and FUTA taxes. Withhold income tax on these payments only if you and the employee agree to do so. Nonetheless, noncash payments for agricultural labor, such as commodity wages, are treated as cash payments subject to employment taxes if the substance of the transaction is a cash payment.

Moving expenses. Reimbursed and employer-paid qualified moving expenses (those that would otherwise be deductible by the employee) paid under an accountable plan are not includible in an employee's income unless you have knowledge the employee deducted the expenses in a prior year. Reimbursed and employer-paid nonqualified moving expenses are includible in income and are subject to employment taxes and income tax withholding. For more information on moving expenses, see Publication 521, Moving Expenses.

Meals and lodging. The value of meals is not taxable income and is not subject to income tax withholding and social security, Medicare, and FUTA taxes if the meals are furnished for the employer's convenience and on the employer's premises. The value of lodging is not subject to income tax withholding and social security, Medicare, and FUTA taxes if the lodging is furnished for the employer's convenience, on the employer's premises, and as a condition of employment.

"For the convenience of the employer" means you have a substantial business reason for providing the meals and lodging other than to provide additional compensation to the employee. For example, meals you provide at the place of work so that an employee is available for emergencies during his or her lunch period are generally considered to be for your convenience.

However, whether meals or lodging are provided for the convenience of the employer depends on all of the facts and circumstances. A written statement that the meals or lodging are for your convenience is not sufficient.

50% test. If over 50% of the employees who are provided meals on an employer's business premises receive these meals for the convenience of the employer, all meals provided on the premises are treated as furnished for the convenience of the employer. If this 50% test is met, the value of the meals is excludable from income for all employees and is not subject to federal income tax withholding or employment taxes. For more information, see Publication 15-B.

Health insurance plans. If you pay the cost of an accident or health insurance plan for your employees, including an employee's spouse and dependents, your payments are not wages and are not subject to social security, Medicare, and FUTA taxes, or federal income tax withholding. Generally, this exclusion also applies to qualified long-term care insurance contracts. However, for income tax withholding, the value of health insurance benefits must be included in the wages of S corporation employees who own more than 2% of the S corporation (2% shareholders). For social security, Medicare, and FUTA taxes, the health insurance benefits are excluded from the wages only for employees and their dependents or for a class or classes of employees and their dependents. See Announcement 92-16 for more information. You can find Announcement 92-16 on page 53 of Internal Revenue Bulletin 1992-5.

Health Savings Accounts and medical savings accounts. Your contributions to an employee's Health Savings Account (HSA) or Archer medical savings account (MSA) are not subject to social security, Medicare, or FUTA taxes, or federal income tax withholding if it is reasonable to believe at the time of payment of the contributions they will be excludable from the income of the employee. To the extent it is not reasonable to believe they will be excludable, your contributions are subject to these taxes. Employee contributions to their HSAs or MSAs through a payroll deduction plan must be included in wages and are subject to social security, Medicare, and FUTA taxes and income tax withholding. However, HSA contributions made under a salary reduction arrangement in a section 125 cafeteria plan are not wages and are not subject to employment taxes or withholding. For more information, see the Instructions for Form 8889, Health Savings Accounts.

Medical care reimbursements. Generally, medical care reimbursements paid for an employee under an employer's self-insured medical reimbursement plan are not wages and are not subject to social security, Medicare, and FUTA taxes, or income tax withholding. See Publication 15-B for an exception for highly compensated employees.

Differential wage payments. Differential wage payments are any payments made by an employer to an individual for a period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days and represent all or a portion of the wages the individual would have received from the employer if the individual were performing services for the employer.

Differential wage payments are wages for income tax withholding, but are not subject to social security, Medicare, or FUTA taxes. Employers should report differential wage payments on Form W-2 in box 1. For more information about the tax treatment of differential wage payments, visit the IRS website at www.irs.gov and enter keywords *Employers with Employees in a Combat Zone.*

Fringe benefits. You generally must include fringe benefits in an employee's gross income (but see *Nontaxable fringe benefits* next). The benefits are subject to income tax withholding and employment taxes. Fringe benefits include cars you provide, flights on aircraft you provide, free or discounted commercial flights, vacations, discounts on property or services, memberships in country clubs or other social clubs, and tickets to entertainment or sporting events. In general, the amount you must include is the amount by which the fair market value of the benefits is more than the sum of what the employee paid for it plus any amount the law excludes. There are other special rules you and your employees may use to value certain fringe benefits. See Publication 15-B for more information.

Nontaxable fringe benefits. Some fringe benefits are not taxable (or are minimally taxable) if certain conditions are met. See Publication 15-B for details. Examples include:

1. Services provided to your employees at no additional cost to you,
2. Qualified employee discounts,
3. Working condition fringes that are property or services the employee could deduct as a business expense if he or she had paid for it. Examples include a company car for business use and subscriptions to business magazines,

4. Certain minimal value fringes (including an occasional cab ride when an employee must work overtime, local transportation benefits provided because of unsafe conditions and unusual circumstances, and meals you provide at eating places you run for your employees if the meals are not furnished at below cost),
5. Qualified transportation fringes subject to specified conditions and dollar limitations (including transportation in a commuter highway vehicle, any transit pass, and qualified parking),
6. Qualified moving expense reimbursement. See *Moving expenses*, on page 12 for details,
7. The use of on-premises athletic facilities, if substantially all of the use is by employees, their spouses, and their dependent children, and
8. Qualified tuition reduction an educational organization provides to its employees for education. For more information, see Publication 970, Tax Benefits for Education.

However, do not exclude the following fringe benefits from the income of highly compensated employees unless the benefit is available to other employees on a nondiscriminatory basis.

- No-additional-cost services (item 1 above).
- Qualified employee discounts (item 2 above).
- Meals provided at an employer operated eating facility (included in item 4 above).
- Reduced tuition for education (item 8 above).

For more information, including the definition of a highly compensated employee, see Publication 15-B.

When fringe benefits are treated as paid. You may choose to treat certain noncash fringe benefits as paid by the pay period, by the quarter, or on any other basis you choose as long as you treat the benefits as paid at least once a year. You do not have to make a formal choice of payment dates or notify the IRS of the dates you choose. You do not have to make this choice for all employees. You may change methods as often as you like, as long as you treat all benefits provided in a calendar year as paid by December 31 of the calendar year. See Publication 15-B for more information, including a discussion of the special accounting rule for fringe benefits provided during November and December.

Valuation of fringe benefits. Generally, you must determine the value of fringe benefits no later than January 31 of the next year. Before January 31, you may reasonably estimate the value of the fringe benefits for purposes of withholding and depositing on time.

Withholding on fringe benefits. You may add the value of fringe benefits to regular wages for a payroll period and figure withholding taxes on the total, or you may withhold federal income tax on the value of the fringe benefits at the flat 25% supplemental wage rate. However, see *Withholding on supplemental wages when an employee receives more than $1,000,000 of supplemental wages during the calendar year* in section 7.

You may choose not to withhold income tax on the value of an employee's personal use of a vehicle you provide. You must, however, withhold social security and Medicare taxes on the use of the vehicle. See Publication 15-B for more information on this election.

Depositing taxes on fringe benefits. Once you choose payment dates for fringe benefits (discussed above), you must deposit taxes in the same deposit period you treat the fringe benefits as paid. To avoid a penalty, deposit the taxes following the general deposit rules for that deposit period.

If you determine by January 31 you overestimated the value of a fringe benefit at the time you withheld and deposited for it, you may claim a refund for the overpayment or have it applied to your next employment tax return. See *Valuation of fringe benefits*, above. If you underestimated the value and deposited too little, you may be subject to a failure-to-deposit penalty. See section 11 for information on deposit penalties.

If you deposited the required amount of taxes but withheld a lesser amount from the employee, you can recover from the employee the social security, Medicare, or income taxes you deposited on his or her behalf, and included in the employee's Form W-2. However, you must recover the income taxes before April 1 of the following year.

Sick pay. In general, sick pay is any amount you pay under a plan to an employee who is unable to work because of sickness or injury. These amounts are sometimes paid by a third party, such as an insurance company or an employees' trust. In either case, these payments are subject to social security, Medicare, and FUTA taxes. Sick pay becomes exempt from these taxes after the end of 6 calendar months after the calendar month the employee last worked for the employer. The payments are always subject to federal income tax. See Publication 15-A for more information.

6. Tips

Tips your employee receives from customers are generally subject to withholding. Your employee must report cash tips to you by the 10th of the month after the month the tips are received. The report should include tips you paid over to the employee for charge customers and tips the employee received directly from customers. No report is required for months when tips are less than $20. Your employee reports the tips on Form 4070, Employee's Report of Tips to Employer, or on a similar statement. The statement must be signed by the employee and must show the following:

- The employee's name, address, and SSN.
- Your name and address.
- The month or period the report covers.
- The total of tips received during the month or period.

Both Forms 4070 and 4070-A, Employee's Daily Record of Tips, are included in Publication 1244, Employee's Daily Record of Tips.

TIP *You are permitted to establish a system for electronic tip reporting by employees. See Regulations section 31.6053-1(d).*

Collecting taxes on tips. You must collect income tax, employee social security tax, and employee Medicare tax on the employee's tips. If an employee reports to you in writing $20 or more of tips in a month, the tips are also subject to FUTA tax.

You can collect these taxes from the employee's wages or from other funds he or she makes available. See *Tips treated as supplemental wages* in section 7 for more information. Stop collecting the employee social security tax when his or her wages and tips for tax year 2010 reach $106,800; collect the income and employee Medicare taxes for the whole year on all wages and tips. You are responsible for the employer social security tax on wages and tips until the wages (including tips) reach the limit. You

are responsible for the employer Medicare tax for the whole year on all wages and tips. File Form 941 or Form 944 to report withholding and employment taxes on tips.

Ordering rule. If, by the 10th of the month after the month for which you received an employee's report on tips, you do not have enough employee funds available to deduct the employee tax, you no longer have to collect it. If there are not enough funds available, withhold taxes in the following order.

1. Withhold on regular wages and other compensation.
2. Withhold social security and Medicare taxes on tips.
3. Withhold income tax on tips.

Reporting tips. Report tips and any uncollected social security and Medicare taxes on Form W-2 and on lines 5b and 5c of Form 941 (lines 4b and 4c of Form 944). Report an adjustment on line 7c of Form 941 (line 6a of the 2008 Form 944, line 6 of the 2009 Form 944) for the uncollected social security and Medicare taxes. Enter the amount of uncollected social security and Medicare taxes in box 12 of Form W-2 with codes A and B. See section 13 and the Instructions for Forms W-2 and W-3.

Allocated tips. If you operate a large food or beverage establishment, you must report allocated tips under certain circumstances. However, do not withhold income, social security, or Medicare taxes on allocated tips.

A large food or beverage establishment is one that provides food or beverages for consumption on the premises, where tipping is customary, and where there were normally more than 10 employees on a typical business day during the preceding year.

The tips may be allocated by one of three methods—hours worked, gross receipts, or good faith agreement. For information about these allocation methods, including the requirement to file Forms 8027 electronically if 250 or more forms are filed, see the Instructions for Form 8027.

Tip Rate Determination and Education Program. Employers may participate in the Tip Rate Determination and Education Program. The program primarily consists of two voluntary agreements developed to improve tip income reporting by helping taxpayers to understand and meet their tip reporting responsibilities. The two agreements are the Tip Rate Determination Agreement (TRDA) and the Tip Reporting Alternative Commitment (TRAC). A tip agreement, the Gaming Industry Tip Compliance Agreement (GITCA), is available for the gaming (casino) industry. Additionally, the IRS is offering an expanded tip reporting and education program for food and beverage industry employers called the Attributed Tip Income Program (ATIP). ATIP has simple enrollment requirements and procedures. To find out more about the program, or to identify the IRS Tip Coordinator for your state, call the IRS at 1-800-829-4933. To get more information about TRDA and TRAC agreements See Pub 3144, Tips on Tips. For more information on ATIP agreements see Pub 1461, ATIP Attributed Income Brochure. Additionally you can access the IRS website at *www.irs.gov* and enter keywords *MSU tips* to get more information about ATIP, GITCA, TRDA, or TRAC agreements.

7. Supplemental Wages

Supplemental wages are compensation paid in addition to an employee's regular wages. They include, but are not limited to, bonuses, commissions, overtime pay, payments for accumulated sick leave, severance pay, awards, prizes, back pay, retroactive pay increases, and payments for nondeductible moving expenses. Other payments subject to the supplemental wage rules include taxable fringe benefits and expense allowances paid under a nonaccountable plan. How you withhold on supplemental wages depends on whether the supplemental payment is identified as a separate payment from regular wages. See Regulations section 31.3402(g)-1 for additional guidance for wages paid after January 1, 2007. Also see Revenue Ruling 2008-29, 2008-24 I.R.B. 1149, available at *www.irs.gov/irb/2008-24_IRB/ar08.html*.

Withholding on supplemental wages when an employee receives more than $1,000,000 of supplemental wages from you during the calendar year. Special rules apply to the extent supplemental wages paid to any one employee during the calendar year exceed $1,000,000. If a supplemental wage payment, together with other supplemental wage payments made to the employee during the calendar year, exceeds $1,000,000, the excess is subject to withholding at 35 percent (or the highest rate of income tax for the year). Withhold using the 35% rate without regard to the employee's Form W-4. In determining supplemental wages paid to the employee during the year, include payments from all businesses under common control. For more information, see Treasury Decision 9276, 2006-37 I.R.B. 423, available at *www.irs.gov/irb/2006-37_IRB/ar09.html*.

Withholding on supplemental wage payments to an employee who does not receive $1,000,000 of supplemental wages during the calendar year. If the supplemental wages paid to the employee during the calendar year are less than or equal to $1,000,000, the following rules apply in determining the amount of income tax to be withheld.

Supplemental wages combined with regular wages. If you pay supplemental wages with regular wages but do not specify the amount of each, withhold federal income tax as if the total were a single payment for a regular payroll period.

Supplemental wages identified separately from regular wages. If you pay supplemental wages separately (or combine them in a single payment and specify the amount of each), the federal income tax withholding method depends partly on whether you withhold income tax from your employee's regular wages.

1. If you withheld income tax from an employee's regular wages in the current or immediately preceding calendar year, you can use one of the following methods for the supplemental wages.
   a. Withhold a flat 25% (no other percentage allowed).
   b. If the supplemental wages are paid concurrently with regular wages, add the supplemental wages to the concurrently paid regular wages. If there are no concurrently paid regular wages, add the supplemental wages to alternatively, either the regular wages paid or to be paid for the current payroll period or the regular wages paid for the preceding payroll period. Figure the income tax withholding as if the total of the regular wages and supplemental wages is a single payment. Subtract the tax withheld from the regular wages. Withhold the remaining tax from the supplemental wages. If there were other payments of supplemental wages paid during the payroll period made before the current payment of supplemental wages, aggregate all the payments of supplemental wages paid during the payroll period with the regular wages paid during the payroll period, calculate the tax on the total, subtract the tax already withheld

from the regular wages and the previous supplemental wage payments, and withhold the remaining tax.

2. If you did not withhold income tax from the employee's regular wages in the current or immediately preceding calendar year, use method 1-b above. This would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages.

Regardless of the method you use to withhold income tax on supplemental wages, they are subject to social security, Medicare, and FUTA taxes.

Example 1. You pay John Peters a base salary on the 1st of each month. He is single and claims one withholding allowance. In January of 2010, he is paid $1,000. Using the wage bracket tables, you withhold $21 from this amount. In February 2010, he receives salary of $1,000 plus a commission of $2,000, which you include with regular wages. You figure the withholding based on the total of $3,000. The correct withholding from the tables is $314.

Example 2. You pay Sharon Warren a base salary on the 1st of each month. She is single and claims one allowance. Her May 1, 2010, pay is $2,000. Using the wage bracket tables, you withhold $164. On May 14, 2010, she receives a bonus of $2,000. Electing to use supplemental payment method 1-b, you:

1. Add the bonus amount to the amount of wages from the most recent pay date ($2,000 + $2,000 = $4,000).
2. Determine the amount of withholding on the combined $4,000 amount to be $535 using the wage bracket tables.
3. Subtract the amount withheld from wages on the most recent pay date from the combined withholding amount ($535 – $164 = $371).
4. Withhold $371 from the bonus payment.

Example 3. The facts are the same as in Example 2, except you elect to use the flat rate method of withholding on the bonus. You withhold 25% of $2,000, or $500, from Sharon's bonus payment.

Example 4. The facts are the same as in Example 2, except you elect to pay Sharon a second bonus of $1,000 on May 28. Using supplemental payment method 1-b, you:

1. Add the bonus amount to the amount of wages from the most recent pay date ($2,000 + $2,000 + $1,000 = $5,000).
2. Determine the amount of withholding on the combined $5,000 amount to be $785 using the wage bracket tables.
3. Subtract the amounts withheld from wages on the most recent pay date and from the first bonus payment from the combined withholding amount ($785 – $164 – $371= $250).
4. Withhold $250 from the second bonus payment.

Tips treated as supplemental wages. Withhold income tax on tips from wages or from other funds the employee makes available. If an employee receives regular wages and reports tips, figure income tax withholding as if the tips were supplemental wages. If you have not withheld income tax from the regular wages, add the tips to the regular wages. Then withhold income tax on the total. If you withheld income tax from the regular wages, you can withhold on the tips by method 1-a or 1-b on page 14.

Vacation pay. Vacation pay is subject to withholding as if it were a regular wage payment. When vacation pay is in addition to regular wages for the vacation period, treat it as a supplemental wage payment. If the vacation pay is for a time longer than your usual payroll period, spread it over the pay periods for which you pay it.

8. Payroll Period

Your payroll period is a period of service for which you usually pay wages. When you have a regular payroll period, withhold income tax for that time period even if your employee does not work the full period.

No regular payroll period. When you do not have a regular payroll period, withhold the tax as if you paid wages for a daily or miscellaneous payroll period. Figure the number of days (including Sundays and holidays) in the period covered by the wage payment. If the wages are unrelated to a specific length of time (for example, commissions paid on completion of a sale), count back the number of days from the payment period to the latest of:

- The last wage payment made during the same calendar year,
- The date employment began, if during the same calendar year, or
- January 1 of the same year.

Employee paid for period less than 1 week. When you pay an employee for a period of less than one week, and the employee signs a statement under penalties of perjury indicating he or she is not working for any other employer during the same week for wages subject to withholding, figure withholding based on a weekly payroll period. If the employee later begins to work for another employer for wages subject to withholding, the employee must notify you within 10 days. You then figure withholding based on the daily or miscellaneous period.

9. Withholding From Employees' Wages

Income Tax Withholding

Using Form W-4 to figure withholding. To know how much federal income tax to withhold from employees' wages, you should have a Form W-4, Employee's Withholding Allowance Certificate, on file for each employee. Encourage your employees to file an updated Form W-4 for 2010, especially if they owed taxes or received a large refund when filing their 2009 tax return. Advise your employees to use the Withholding Calculator on the IRS website at *www.irs.gov/individuals* for help in determining how many withholding allowances to claim on their Forms W-4.

Ask all new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If a new employee does not give you a completed Form W-4, withhold income tax as if he or she is single, with no withholding allowances.

Form in Spanish. You can provide Formulario W-4(SP), Certificado de Exención de Retenciones del Empleado, in place of Form W-4, Employee's Withholding

Allowance Certificate, to your Spanish-speaking employees. For more information, see Publicación 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas). The rules discussed in this section that apply to Form W-4 also apply to Formulario W-4(SP).

Electronic system to receive Form W-4. You may establish a system to electronically receive Forms W-4 from your employees. See Regulations section 31.3402(f)(5)-1(c) for more information.

Effective date of Form W-4. A Form W-4 remains in effect until the employee gives you a new one. When you receive a new Form W-4 from an employee, do not adjust withholding for pay periods before the effective date of the new form. If an employee gives you a Form W-4 that replaces an existing Form W-4, begin withholding no later than the start of the first payroll period ending on or after the 30th day from the date when you received the replacement Form W-4. For exceptions, see *Exemption from federal income tax withholding*, *IRS review of requested Forms W-4*, and *Invalid Forms W-4*, later.

CAUTION *A Form W-4 that makes a change for the next calendar year will not take effect in the current calendar year.*

Successor employer. If you are a successor employer (see *Successor employer* on page 18), secure new Forms W-4 from the transferred employees unless the "Alternative Procedure" in section 5 of Revenue Procedure 2004-53 applies. See Revenue Procedure 2004-53, 2004-34 I.R.B. 320, available at *www.irs.gov/irb/2004-34_IRB/ar13.html*.

Completing Form W-4. The amount of any federal income tax withholding must be based on marital status and withholding allowances. Your employees may not base their withholding amounts on a fixed dollar amount or percentage. However, an employee may specify a dollar amount to be withheld in addition to the amount of withholding based on filing status and withholding allowances claimed on Form W-4.

Employees may claim fewer withholding allowances than they are entitled to claim. They may wish to claim fewer allowances to ensure they have enough withholding or to offset the tax on other sources of taxable income not subject to adequate withholding.

See Publication 505, Tax Withholding and Estimated Tax, for more information about completing Form W-4. Along with Form W-4, you may wish to order Publication 505 and Publication 919, How Do I Adjust My Tax Withholding, for use by your employees.

Do not accept any withholding or estimated tax payments from your employees in addition to withholding based on their Form W-4. If they require additional withholding, they should submit a new Form W-4 and, if necessary, pay estimated tax by filing Form 1040-ES, Estimated Tax for Individuals.

Exemption from federal income tax withholding. Generally, an employee may claim exemption from federal income tax withholding because he or she had no income tax liability last year and expects none this year. See the Form W-4 instructions for more information. However, the wages are still subject to social security and Medicare taxes. See also *Invalid Forms W-4* on page 18.

A Form W-4 claiming exemption from withholding is valid for only 1 calendar year. To continue to be exempt from withholding in the next year, an employee must give you a new Form W-4 by February 15 of that year. If the employee does not give you a new Form W-4, withhold tax as if the employee is single with zero withholding allowances or withhold based on the last valid Form W-4 you have for the employee.

Withholding income taxes on the wages of nonresident alien employees. In general, you must withhold federal income taxes on the wages of nonresident alien employees. However, see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities for exceptions to this general rule.

Withholding Adjustment for Nonresident Aliens. For 2010, a new procedure applies for figuring the amount of income tax to withhold from the wages of nonresident alien employees performing services within the United States. This procedure requires use of a new chart and new tables in addition to the withholding tables used to figure income tax withholding on other employees.

Instructions. To figure how much income tax to withhold from the wages paid a nonresident alien employee performing services in the United States, use the following four steps.

Step 1. Add to the wages paid to the nonresident alien employee for the payroll period the amount shown in the chart below for the applicable payroll period.

Amount to Add to Nonresident Alien Employee's Wages for Calculating Income Tax Withholding Only

Payroll Period	Add Additional
Weekly	$ 39.42
Biweekly	78.85
Semimonthly	85.42
Monthly	170.83
Quarterly	512.50
Semiannually	1,025.00
Annually	2,050.00
Daily or Miscellaneous (each day of the payroll period)	7.88

Step 2. Use the amount figured in *Step 1* and the number of withholding allowances claimed (generally limited to one allowance) to figure income tax withholding using the tables that are used to figure income tax withholding for all other employees. If you use the percentage method tables on pages 39-40 reduce the amount figured in *Step 1* by the value of withholding allowances and use that reduced amount to figure income tax withholding from the percentage method table. If you use the wage bracket tables on pages 41-60 use the amount figured in *Step 1* to figure income tax withholding using the wage bracket tables.

Step 3. Use the amount you figured in *Step 1* after subtracting the value of withholding allowances claimed (generally limited to one allowance) to figure an amount from the Tables for Withholding Adjustment for Nonresident Aliens for Wages Paid in 2010 on page 70.

Step 4. Add the amounts you figured in *Steps 2 and 3*. The total is the amount of income tax to withhold from the nonresident alien employee's wages for the payroll period.

TIP *Nonresident alien students from India and business apprentices from India are not subject to this procedure.*

The amounts added under the chart on the previous page are added to wages solely for calculating income tax withholding on the wages of the nonresident alien employee. The amounts from the chart on the previous page should not be included in any box on the employee's Form

W-2 and do not increase the income tax liability of the employee. Also, these chart amounts do not increase the social security, Medicare, or FUTA tax liability of the employer or the employee.

This procedure only applies to nonresident alien employees who have wages subject to income tax withholding.

Example. An employer using the percentage method of withholding pays wages of $500 for a biweekly payroll period to a married nonresident alien employee. The nonresident alien has properly completed Form W-4, entering marital status as "single" with one withholding allowance and indicating status as a nonresident alien on line 6 of Form W-4 (see *Nonresident alien employee's Form W-4* later). The employer determines the wages to be used in the withholding tables by adding to the $500 amount of wages paid the amount of $78.85 from the chart on page 16 ($578.85 total). The employer then applies the applicable tables to determine the income tax withholding and the additional income tax withholding for nonresident aliens. If you use the percentage method withholding tables, reduce the amount figured in Step 1 by the value of withholding allowances and use that reduced amount to figure income tax withholding from the percentage method tables.

The $78.85 added to wages for calculating income tax withholding is not reported on Form W-2, and does not increase the income tax liability of the employee. The $78.85 added amount also does not affect the social security tax, Medicare tax, or FUTA tax liability of the employer or the employee.

Supplemental wage payment. This procedure for determining the amount of income tax withholding does not apply to a supplemental wage payment (see section 7) if the 35 percent mandatory flat rate withholding applies or if the 25 percent flat rate withholding is being used to calculate income tax withholding on the supplemental wage payment.

Nonresident alien employee's Form W-4. When completing Forms W-4, nonresident aliens are required to:

- Not claim exemption from income tax withholding,
- Request withholding as if they are single, regardless of their actual marital status,
- Claim only one allowance (if the nonresident alien is a resident of Canada, Mexico, or Korea, he or she may claim more than one allowance), and
- Write "Nonresident Alien" or "NRA" above the dotted line on line 6 of Form W-4.

If you maintain an electronic Form W-4 system, you should provide a field for nonresident aliens to enter nonresident alien status in lieu of writing "Nonresident Alien" or "NRA" above the dotted line on line 6.

TIP *A nonresident alien employee may request additional withholding at his or her option for other purposes, although such additions should not be necessary for withholding to cover federal income tax liability related to employment.*

Form 8233. If a nonresident alien employee claims a tax treaty exemption from withholding, the employee must submit Form 8233, Exemption from Withholding or Compensation for Independent (& Certain Dependent) Personal Services of a Nonresident Alien Individual, with respect to the income exempt under the treaty, instead of Form W-4. See Publication 515 for details.

IRS review of requested Forms W-4. When requested by the IRS, you must make original Forms W-4 available for inspection by an IRS employee. You may also be directed to send certain Forms W-4 to the IRS. You may receive a notice from the IRS requiring you to submit a copy of Form W-4 for one or more of your named employees. Send the requested copy or copies of Form W-4 to the IRS at the address provided and in the manner directed by the notice. The IRS may also require you to submit copies of Form W-4 to the IRS as directed by a revenue procedure or notice published in the Internal Revenue Bulletin. When we refer to Form W-4, the same rules apply to Formulario W-4(SP), its Spanish translation.

After submitting a copy of a requested Form W-4 to the IRS, continue to withhold federal income tax based on that Form W-4 if it is valid (see *Invalid Forms W-4* on page 18). However, if the IRS later notifies you in writing the employee is not entitled to claim exemption from withholding or a claimed number of withholding allowances, withhold federal income tax based on the effective date, marital status, and maximum number of withholding allowances specified in the notice (commonly referred to as a "lock-in letter").

Initial lock-in letter. The IRS also uses information reported on Form W-2 to identify employees with withholding compliance problems. In some cases, if a serious under-withholding problem is found to exist for a particular employee, the IRS may issue a lock-in letter to the employer specifying the maximum number of withholding allowances and marital status permitted for a specific employee. You must furnish this notice to the employee within 10 business days of receipt if the employee is employed by you as of the date of the notice. Begin withholding based on the notice on the date specified in the notice.

Employee not performing services. If you receive a notice for an employee who is not performing services for you, you must still furnish the notice to the employee and withhold based on the notice if any of the following apply.

- You are paying wages for the employee's prior services and the wages are subject to income tax withholding on or after the date specified in the notice.
- You reasonably expect the employee to resume services within 12 months of the date of the notice.
- The employee is on a leave of absence that does not exceed 12 months or the employee has a right to reemployment after the leave of absence.

Termination and re-hire of employees. If you must furnish and withhold based on the notice and the employment relationship is terminated after the date of the notice, you must continue to withhold based on the notice if you continue to pay any wages subject to income tax withholding. You must also withhold based on the notice or modification notice if the employee resumes the employment relationship with you within 12 months after the termination of the employment relationship.

Modification notice. After issuing the notice specifying the maximum number of withholding allowances and marital status permitted, the IRS may issue a subsequent notice (modification notice) that modifies the original notice. The modification notice may change the marital status and/or the number of withholding allowances permitted. You must withhold federal income tax based on effective date specified in the modification notice.

New Form W-4 after notice. After the IRS issues a notice or modification notice, if the employee provides you with a new Form W-4 claiming complete exemption from withholding or claims a marital status, a number of withholding allowances, and any additional withholding that results in less withholding than would result under the IRS notice or modification notice, disregard the new Form W-4.

You must withhold based on the notice or modification notice unless the IRS notifies you to withhold based on the new Form W-4. If the employee wants to put a new Form W-4 into effect that results in less withholding than required, the employee must contact the IRS.

If, after you receive an IRS notice or modification notice, your employee gives you a new Form W-4 that does not claim exemption from federal income tax withholding and claims a marital status, a number of withholding allowances, and any additional withholding that results in more withholding than would result under the notice or modification notice, you must withhold tax based on the new Form W-4. Otherwise, disregard any subsequent Forms W-4 provided by the employee and withhold based on the IRS notice or modification notice.

For additional information about these rules, see Treasury Decision 9337, 2007-35 I.R.B. 455, available at *www.irs.gov/irb/2007-35_IRB/ar10.html*.

Substitute Forms W-4. You are encouraged to have your employees use the official version of Form W-4 to claim withholding allowances or exemption from withholding. Call the IRS at 1-800-829-3676 or visit the IRS website at *www.irs.gov* to obtain copies of Form W-4.

You may use a substitute version of Form W-4 to meet your business needs. However, your substitute Form W-4 must contain language that is identical to the official Form W-4 and your form must meet all current IRS rules for substitute forms. At the time you provide your substitute form to the employee, you must provide him or her with all tables, instructions, and worksheets from the current Form W-4.

You cannot accept substitute Forms W-4 developed by employees. An employee who submits an employee-developed substitute Form W-4 after October 10, 2007, will be treated as failing to furnish a Form W-4. However, continue to honor any valid employee-developed Forms W-4 you accepted before October 11, 2007.

Invalid Forms W-4. Any unauthorized change or addition to Form W-4 makes it invalid. This includes taking out any language by which the employee certifies the form is correct. A Form W-4 is also invalid if, by the date an employee gives it to you, he or she indicates in any way it is false. An employee who submits a false Form W-4 may be subject to a $500 penalty. You may treat a Form W-4 as invalid if the employee wrote "exempt" on line 7 and also entered a number on line 5 or an amount on line 6.

When you get an invalid Form W-4, do not use it to figure federal income tax withholding. Tell the employee it is invalid and ask for another one. If the employee does not give you a valid one, withhold taxes as if the employee was single and claiming no withholding allowances. However, if you have an earlier Form W-4 for this worker that is valid, withhold as you did before.

Amounts exempt from levy on wages, salary, and other income. If you receive a Notice of Levy on Wages, Salary, and Other Income (Forms 668-W(ACS), 668-W(c)(DO), or 668-W(ICS)), you must withhold amounts as described in the instructions for these forms. Publication 1494 (2009), Tables for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income—Forms 668-W(ACS), 668-W(c)(DO), and 668-W(ICS), shows the exempt amount. If a levy issued in a prior year is still in effect and the taxpayer submits a new Statement of Exemptions and Filing Status, use the current year Publication 1494 to compute the exempt amount.

Social Security and Medicare Taxes

The Federal Insurance Contributions Act (FICA) provides for a federal system of old-age, survivors, disability, and hospital insurance. The old-age, survivors, and disability insurance part is financed by the social security tax. The hospital insurance part is financed by the Medicare tax. Each of these taxes is reported separately.

Generally, you are required to withhold social security and Medicare taxes from your employees' wages and you must also pay a matching amount of these taxes. Certain types of wages and compensation are not subject to social security and Medicare taxes. See sections 5 and 15 for details. Generally, employee wages are subject to social security and Medicare taxes regardless of the employee's age or whether he or she is receiving social security benefits. If the employee reported tips, see section 6.

Tax rates and the social security wage base limit. Social security and Medicare taxes have different rates and only the social security tax has a wage base limit. The wage base limit is the maximum wage subject to the tax for the year. Determine the amount of withholding for social security and Medicare taxes by multiplying each payment by the employee tax rate. There are no withholding allowances for social security and Medicare taxes.

The employee tax rate for social security is 6.2% (amount withheld). The employer tax rate for social security is also 6.2% (12.4% total). The 2009 wage base limit was $106,800, and remains unchanged for 2010.

The employee tax rate for Medicare is 1.45% (amount withheld). The employer tax rate for Medicare tax is also 1.45% (2.9% total). There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

Successor employer. If you received all or most of the property used in the trade or business of another employer, or a unit of that employer's trade or business, you may include the wages the other employer paid to your acquired employees before the transfer of property when you figure the annual wage base limit for social security. You should determine whether or not you should file Schedule D (Form 941), Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations, by reviewing the Instructions for Schedule D (Form 941). See Regulations section 31.3121(a)(1)-1(b) for more information. Also see Revenue Procedure 2004-53, 2004-34 I.R.B. 320, available at *www.irs.gov/irb/2004-34_IRB/ar13.html*.

Example. Early in 2010, you bought all of the assets of a plumbing business from Mr. Martin. Mr. Brown, who had been employed by Mr. Martin and received $2,000 in wages before the date of purchase, continued to work for you. The wages you paid to Mr. Brown are subject to social security taxes on the first $104,800 ($106,800 minus $2,000). Medicare tax is due on all of the wages you pay him during the calendar year.

Withholding of social security and Medicare taxes on nonresident aliens. In general, if you pay wages to nonresident alien employees, you must withhold federal social security and Medicare taxes as you would for a U.S. citizen. However, see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, for exceptions to this general rule.

International social security agreements. The United States has social security agreements, also known as totalization agreements, with many countries that eliminate dual taxation and dual coverage. Compensation subject to social security and Medicare taxes may be exempt under one of these agreements. You can get more information and a list of agreement countries from the SSA at *www.socialsecurity.gov/international* or see section 7 of Publication 15-A.

Religious exemption. An exemption from social security and Medicare taxes is available to members of a recognized religious sect opposed to insurance. This exemption is available only if both the employee and the employer are members of the sect.

For more information, see Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.

Foreign persons treated as American employers. For services performed after July 31, 2008, a foreign person who meets both of the following conditions is generally treated as an American employer for paying FICA taxes on an employee's wages.

1. The foreign person is a member of a domestically controlled group of entities.
2. The employee of the foreign person performs services in connection with a contract between the U.S. Government (or an instrumentality of the U.S. Government) and any member of the domestically controlled group of entities. Ownership of 80% constitutes control.

Part-Time Workers

For federal income tax withholding and social security, Medicare, and federal unemployment (FUTA) tax purposes, there are no differences among full-time employees, part-time employees, and employees hired for short periods. It does not matter whether the worker has another job or has the maximum amount of social security tax withheld by another employer. Income tax withholding may be figured the same way as for full-time workers. Or it may be figured by the part-year employment method explained in section 9 of Publication 15-A.

10. Advance Earned Income Credit (EIC) Payment

An employee who expects to be eligible for the earned income credit (EIC) and expects to have a qualifying child is entitled to receive EIC payments with his or her pay during the year. To get these payments, the employee must provide to you a properly completed Form W-5 (or Formulario W-5(SP), its Spanish translation), Earned Income Credit Advance Payment Certificate, using either the paper form or an approved electronic format. You are required to make advance EIC payments to employees who give you a completed and signed Form W-5. You may establish a system to electronically receive Forms W-5 from your employees. See Announcement 99-3 for information on electronic requirements for Form W-5. You can find Announcement 99-3 on page 15 of Internal Revenue Bulletin 1999-3 at *www.irs.gov/pub/irs-irbs/irb99-03.pdf*.

Certain employees who do not have a qualifying child may be able to claim the EIC on their tax return. However, they cannot get advance EIC payments.

For 2010, the advance payment can be as much as $1,830. The tables that begin on page 62 reflect that limit.

Form W-5. Form W-5 explains the eligibility requirements for receiving advance EIC payments. On Form W-5, an employee states he or she expects to be eligible to claim the EIC and shows whether he or she has another Form W-5 in effect with any other current employer. The employee also shows the following:

- Whether he or she expects to have a qualifying child.
- Whether he or she will file a joint return.
- If the employee is married, whether his or her spouse has a Form W-5 in effect with any employer.

An employee may have only one certificate in effect with a current employer at one time. If an employee is married and his or her spouse also works, each spouse should file a separate Form W-5.

Length of effective period. Form W-5 is effective for the first payroll period ending on or after the date the employee gives you the form (or the first wage payment made without regard to a payroll period). It remains in effect until the end of the calendar year unless the employee revokes it or files another one. Eligible employees must file a new Form W-5 each year.

Change of status. If an employee gives you a signed Form W-5 and later becomes ineligible for advance EIC payments, he or she must revoke Form W-5 within 10 days after learning about the change of circumstances. The employee must give you a new Form W-5 stating he or she is no longer eligible for or no longer wants advance EIC payments.

If an employee's situation changes because his or her spouse files a Form W-5, the employee must file a new Form W-5 showing his or her spouse has a Form W-5 in effect with an employer. This will reduce the maximum amount of advance payments you can make to that employee.

If an employee's spouse has filed a Form W-5 that is no longer in effect, the employee may file a new Form W-5 with you, but is not required to do so. A new form will certify the spouse does not have a Form W-5 in effect and will increase the maximum amount of advance payments you can make to that employee.

Invalid Form W-5. The Form W-5 is invalid if it is incomplete, unsigned, or has an alteration or unauthorized addition. The form has been altered if any of the language has been deleted. Any writing added to the form other than the requested entries is an unauthorized addition.

You should consider a Form W-5 invalid if an employee has made an oral or written statement that clearly shows the Form W-5 to be false. If you receive an invalid form, tell the employee it is invalid as of the date he or she made the oral or written statement. For advance EIC payment purposes, the invalid Form W-5 is considered void.

You are not required to determine if a completed and signed Form W-5 is correct. However, you should contact the IRS if you have reason to believe it contains an incorrect statement.

How to figure the advance EIC payment. To figure the amount of the advance EIC payment to include with the employee's pay, you must consider:

- Wages, including reported tips, for the same period. Generally, figure advance EIC payments using the amount of wages subject to income tax withholding. If an employee's wages are not subject to income tax withholding, use the amount of wages subject to withholding for social security and Medicare taxes.
- Whether the employee is married or single.
- Whether a married employee's spouse has a Form W-5 in effect with an employer.

Do not consider combat zone pay received by the employee and excluded from income as earned income when figuring the advance EIC payment.

Figure the amount of advance EIC to include in the employee's pay by using the tables that begin on page 62. There are separate tables for employees whose spouses have a Form W-5 in effect. See page 38 for instructions using the advance EIC payment tables.

The amount of advance EIC paid to an employee during 2010 cannot exceed $1,830. For example if during the year you have paid an employee with one child total wages of at least $35,535 ($40,545 if married filing jointly), you must also stop making advance EIC payments to that employee for the rest of the year.

Paying the advance EIC to employees. An advance EIC payment is not subject to withholding of income, social security, or Medicare taxes. An advance EIC payment does not change the amount of income, social security, or Medicare taxes you withhold from the employee's wages. You add the EIC payment to the employee's **net** pay for the pay period. At the end of the year, you show the total advance EIC payments in box 9 on Form W-2. Do not include this amount as wages in box 1.

Employer's returns. Show the total payments you made to employees on the advance EIC payments line (line 9) of your Form 941 (line 8 of Form 944). Subtract this amount from your total taxes on line 8 (line 7 of Form 944). See the separate Instructions for Form 941 (or the separate Instructions for Form 944). Reduce the amounts reported on line 17 of 2009 Form 941 (line 15 of Form 944) or on appropriate lines of Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, by any advance EIC paid to your employees.

Generally, employers will make the advance EIC payment from withheld income tax and employee and employer social security and Medicare taxes. These taxes are normally required to be paid over to the IRS either through federal tax deposits or with employment tax returns. For purposes of deposit due dates, advance EIC payments are treated as deposits of these taxes on the day you pay wages (including the advance EIC payment) to your employees. The payments are treated as deposits of these taxes in the following order: (1) income tax withholding, (2) withheld employee social security and Medicare taxes, and (3) the employer's share of social security and Medicare taxes.

Example. You have 10 employees, each entitled to an advance EIC payment of $10. The total amount of advance EIC payments you make for the payroll period is $100. The total amount of income tax withholding for the payroll period is $90. The total employee and employer social security and Medicare taxes for the payroll period is $122.60 ($61.30 each).

You are considered to have made a deposit of $100 advance EIC payment on the day you paid wages. The $100 is treated as if you deposited the $90 total income tax withholding and $10 of the employee social security and Medicare taxes. You remain liable for depositing the remaining $112.60 of the social security and Medicare taxes ($51.30 + $61.30 = $112.60).

Advance EIC payments more than taxes due. For any payroll period, if the total advance EIC payments are more than the total employment taxes (withheld income tax and both employee and employer shares of social security and Medicare taxes), you may choose either to:

1. Reduce each employee's advance payment proportionally so that the total advance EIC payments equal the amount of taxes due or
2. Make full payment of the advance EIC and treat the excess as an advance payment of employment taxes.

Example. You have 10 employees who are each entitled to an advance EIC payment of $10. The total amount of advance EIC payable for the payroll period is $100. The total employment tax for the payroll period is $90 (including income tax withholding and social security and Medicare taxes). The advance EIC payable is $10 more than the total employment tax. The $10 excess is 10% of the advance EIC payable ($100). You may—

- Reduce each employee's payment by 10% (to $9 each) so the advance EIC payments equal your total employment tax ($90) or
- Pay each employee $10, and treat the excess $10 as an advance payment of employment taxes. See the Instructions for Form 941 (or the Instructions for Form 944) for reporting details.

U.S. possessions. If you are in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands, consult your local tax office for information on the EIC. You cannot take advance EIC payments into account on Form 941-SS or Form 944-SS.

Required Notice to Employees

You must notify employees who have no federal income tax withheld they may be able to claim a tax refund because of the EIC. Although you do not have to notify employees who claim exemption from withholding on Form W-4 about the EIC, you are encouraged to notify any employees whose wages for 2009 were less than $43,352 ($48,362 if married filing jointly) they may be eligible to claim the credit for 2010. This is because eligible employees may get a refund of the amount of EIC that is more than the tax they owe.

You will meet this notification requirement if you issue the employee Form W-2 with the EIC notice on the back of Copy B, or a substitute Form W-2 with the same statement. You will also meet the requirement by providing Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording.

If a substitute for Form W-2 is given to the employee on time but does not have the required statement, you must notify the employee within 1 week of the date the substitute for Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 8, 2010.

11. Depositing Taxes

In general, you must deposit federal income tax withheld and both the employer and employee social security and Medicare taxes (minus any advance EIC payments). You must deposit by using the Electronic Federal Tax Payment System (EFTPS) or by mailing or delivering a check, money order, or cash with Form 8109, Federal Tax Deposit Coupon, to a financial institution that is an authorized depositary for federal taxes. Some taxpayers are required to deposit using EFTPS. See *How To Deposit* on page 23 for information on electronic deposit requirements for 2010.

The credit against employment taxes for COBRA assistance payments you take on line 12a of Form 941 or line 11a of Form 944 is treated as a deposit of taxes on the first day of your return period. See COBRA premium assistance credit *on page 7* *for more information.*

Payment with return. You may make a payment with Form 941 or Form 944 instead of depositing, without incurring a penalty, if one of the following applies.

- Your Form 941 total tax liability for either the current quarter or the preceding quarter is less than $2,500, and you did not incur a $100,000 next-day deposit obligation during the current quarter. If you are not sure your total tax liability for the current quarter will be less than $2,500, (and your liability for the preceding quarter was not less than $2,500), make deposits using the semi-weekly or monthly rules so you won't be subject to failure to deposit penalties.
- You are a monthly schedule depositor (defined below) and make a payment in accordance with the *Accuracy of Deposits Rule* discussed on page 23. This payment may be $2,500 or more.

Employers who have been notified to file Form 944 can pay their fourth quarter tax liability with Form 944 if the fourth quarter tax liability is less than $2,500. Employers must have deposited any tax liability due for the first, second, and third quarters according to the deposit rules to avoid failure-to-deposit penalties for deposits during those quarters.

Separate deposit requirements for nonpayroll (Form 945) tax liabilities. Separate deposits are required for nonpayroll and payroll income tax withholding. Do not combine deposits for Forms 941 (or Form 944) and 945 tax liabilities. Generally, the deposit rules for nonpayroll liabilities are the same as discussed below, except the rules apply to an annual rather than a quarterly return period. Thus, the $2,500 threshold for the deposit requirement discussed above applies to Form 945 on an annual basis. See the separate instructions for Form 945 for more information.

When To Deposit

There are two deposit schedules—monthly and semiweekly—for determining when you deposit social security, Medicare, and withheld income taxes. These schedules tell you when a deposit is due after a tax liability arises (for example, when you have a payday). Before the beginning of each calendar year, you must determine which of the two deposit schedules you are required to use. The deposit schedule you must use is based on the total tax liability you reported on Form 941 during a lookback period discussed below. Your deposit schedule is not determined by how often you pay your employees or make deposits. See special rules for Forms 944 and 945 below. See *Application of Monthly and Semiweekly Schedules* on page 22.

CAUTION *These rules do not apply to federal unemployment (FUTA) tax. See section 14 for information on depositing FUTA tax.*

Lookback period. If you are a Form 941 filer, your deposit schedule for a calendar year is determined from the total taxes reported on line 8 of your Forms 941 in a 4-quarter lookback period. The lookback period begins July 1 and ends June 30 as shown in Table 1 below. If you reported $50,000 or less of taxes for the lookback period, you are a monthly schedule depositor; if you reported more than $50,000, you are a semiweekly schedule depositor.

Table 1. **Lookback Period for Calendar Year 2010**

Lookback Period				
2008			2009	2010
July 1 ↓ Sep. 30	Oct. 1 ↓ Dec. 31	Jan. 1 ↓ Mar. 31	Apr. 1 ↓ June 30	← Calendar Year Jan.–Dec.

CAUTION *The lookback period for a 2010 Form 941 filer who filed Form 944 in either 2008 or 2009 is calendar year 2008.*

If you are a Form 944 filer for the current year or either of the preceding 2 years, your deposit schedule for a calendar year is determined from the total taxes reported during the second preceding calendar year (either on line 8 of your Form 941 for all 4 quarters of that year or line 7 of your Form 944 for that year). The lookback period for 2010 for a Form 944 filer is calendar year 2008. If you reported $50,000 or less of taxes for the lookback period, you are a monthly schedule depositor; if you reported more than $50,000, you are a semiweekly schedule depositor.

If you are a Form 945 filer, your deposit schedule for a calendar year is determined from the total taxes reported on line 4 of your Form 945 for the second preceding calendar year. The lookback period for 2010 for a Form 945 filer is calendar year 2008.

Adjustments and the lookback rule. Determine your tax liability for the 4 quarters in the lookback period based on the tax liability as reported on your Forms 941. If you made adjustments on lines 7d, 7e, 7f, or 7g on Forms 941, or lines 6b, 6c, 6d, or 6e on Form 944, filed for periods in 2008 and earlier to correct errors on previously filed Forms 941 and Form 944, these adjustments do affect the amount of tax liability for purposes of the lookback rule. Adjustments made on Forms 941-X and Form 944-X do not affect the amount of tax liability for previous periods for purposes of the lookback rule.

Example. An employer originally reported a tax liability of $45,000 for the lookback period. The employer discovered during January 2010, the tax during one of the lookback period quarters was understated by $10,000 and corrected this error by filing Form 941-X for the quarter in which the error was discovered. This employer is a monthly schedule depositor for 2010 because the lookback period tax liabilities are based on the amounts originally reported, and they were $50,000 or less.

Deposit period. The term deposit period refers to the period during which tax liabilities are accumulated for each required deposit due date. For monthly schedule depositors, the deposit period is a calendar month. The deposit periods for semiweekly schedule depositors are Wednesday through Friday and Saturday through Tuesday.

Monthly Deposit Schedule

You are a monthly schedule depositor for a calendar year if the total taxes on line 8 of Form 941 for the 4 quarters in your lookback period were $50,000 or less. **Under the monthly deposit schedule, deposit employment taxes on payments made during a month by the 15th day of the following month.** See also *Deposits on Banking Days Only* on page 22.

Monthly schedule depositors should not file Form 941 or Form 944 on a monthly basis. Also, do not file Form 941-M,

Employer's Monthly Federal Tax Return, unless you are instructed to do so by an IRS representative.

New employers. Your tax liability for any quarter in the lookback period before you started or acquired your business is considered to be zero. Therefore, you are a monthly schedule depositor for the first calendar year of your business. However, see the *$100,000 Next-Day Deposit Rule* on page 23.

Semiweekly Deposit Schedule

You are a semiweekly schedule depositor for a calendar year if the total taxes on line 8 of Form 941 during your lookback period were more than $50,000. Under the semiweekly deposit schedule, deposit employment taxes for payments made on Wednesday, Thursday, and/or Friday by the following Wednesday. Deposit taxes for payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday. See also *Deposits on Banking Days Only* later.

Note. Semiweekly schedule depositors must complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and submit it with Form 941. If you file Form 944 and are a semiweekly schedule depositor, complete Form 945-A, Annual Record of Federal Tax Liability, and submit it with your return (instead of Schedule B).

Table 2. Semiweekly Deposit Schedule

IF the payday falls on a . . .	THEN deposit taxes by the following . . .
Wednesday, Thursday, and/or Friday	Wednesday
Saturday, Sunday, Monday, and/or Tuesday	Friday

Semiweekly deposit period spanning 2 quarters. If you have more than one pay date during a semiweekly period and the pay dates fall in different calendar quarters, you will need to make **separate deposits** for the separate liabilities.

Example 1. If you have a pay date on Wednesday, September 29, 2010 (third quarter), and another pay date on Friday, October 1, 2010 (fourth quarter), two separate deposits would be required even though the pay dates fall within the same semiweekly period. Both deposits would be due Wednesday, October 6, 2010 (3 banking days from the end of the semiweekly deposit period).

Example 2. If you made a payment on both Wednesday and Friday and incurred taxes of $10,000 for each pay date, deposit the $20,000 on the following Wednesday. If you made no additional payments on Saturday through Tuesday, no deposit is due on the following Friday.

Summary of Steps to Determine Your Deposit Schedule

1. Identify your lookback period (see *Lookback period earlier*).
2. Add the total taxes from line 8, Form 941 you reported during the lookback period.
3. Determine if you are a monthly or semiweekly schedule depositor:

If the total taxes you reported in the lookback period were	Then you are a . . . . .
$50,000 or less	Monthly Schedule Depositor
More than $50,000	Semiweekly Schedule Depositor

Example of Monthly and Semiweekly Schedules

Rose Co. reported Form 941 taxes as follows:

2009 Lookback Period		2010 Lookback Period	
3rd Quarter 2007	$12,000	3rd Quarter 2008	$12,000
4th Quarter 2007	$12,000	4th Quarter 2008	$12,000
1st Quarter 2008	$12,000	1st Quarter 2009	$12,000
2nd Quarter 2008	$12,000	2nd Quarter 2009	$15,000
	$48,000		$51,000

Rose Co. is a monthly schedule depositor for 2009 because its tax liability for the 4 quarters in its lookback period (third quarter 2007 through second quarter 2008) was not more than $50,000. However, for 2010, Rose Co. is a semiweekly schedule depositor because the total taxes exceeded $50,000 for the 4 quarters in its lookback period (third quarter 2008 through second quarter 2009).

Deposits on Banking Days Only

If a deposit is required to be made on a day that is not a banking day, the deposit is considered timely if it is made by the close of the next banking day. In addition to federal and state bank holidays, Saturdays and Sundays are treated as nonbanking days. For example, if a deposit is required to be made on a Friday and Friday is not a banking day, the deposit will be considered timely if it is made by the following Monday (if that Monday is a banking day).

Semiweekly schedule depositors have at least 3 banking days to make a deposit. If any of the 3 weekdays after the end of a semiweekly period is a banking holiday, you will have 1 additional banking day to deposit. For example, if a semiweekly schedule depositor accumulated taxes for payments made on Friday and the following Monday is not a banking day, the deposit normally due on Wednesday may be made on Thursday (allowing 3 banking days to make the deposit).

Application of Monthly and Semiweekly Schedules

The terms "monthly schedule depositor" and "semiweekly schedule depositor" do not refer to how often your business pays its employees or even how often you are required to make deposits. The terms identify which set of deposit rules you must follow when an employment tax liability arises. The deposit rules are based on the dates

when wages are paid (for example, cash basis); not on when tax liabilities are accrued for accounting purposes.

Monthly schedule example. Spruce Co. is a monthly schedule depositor with seasonal employees. It paid wages each Friday. During March it paid wages but did not pay any wages during April. Under the monthly deposit schedule, Spruce Co. must deposit the combined tax liabilities for the four March paydays by April 15. Spruce Co. does not have a deposit requirement for April (due by May 15) because no wages were paid and, therefore, it did not have a tax liability for April.

Semiweekly schedule example. Green, Inc., which has a semiweekly deposit schedule, pays wages once each month on the last day of the month. Although Green, Inc., has a semiweekly deposit schedule, it will deposit just once a month because it pays wages only once a month. The deposit, however, will be made under the semiweekly deposit schedule as follows: Green, Inc.'s tax liability for the April 23, 2010 (Friday), payday must be deposited by April 28, 2010 (Wednesday). Under the semiweekly deposit schedule, liabilities for wages paid on Wednesday through Friday must be deposited by the following Wednesday.

$100,000 Next-Day Deposit Rule

If you accumulate $100,000 or more of taxes (line 10 of Form 941 or line 9 of Form 944) on any day during a deposit period, you must deposit the tax by the next banking day, whether you are a monthly or semiweekly schedule depositor.

For purposes of the $100,000 rule, do not continue accumulating a tax liability after the end of a deposit period. For example, if a semiweekly schedule depositor has accumulated a liability of $95,000 on a Tuesday (of a Saturday-through-Tuesday deposit period) and accumulated a $10,000 liability on Wednesday, the $100,000 next-day deposit rule does not apply. Thus, $95,000 must be deposited by Friday and $10,000 must be deposited by the following Wednesday.

However, once you accumulate at least $100,000 in a deposit period, stop accumulating at the end of that day and begin to accumulate anew on the next day. For example, Fir Co. is a semiweekly schedule depositor. On Monday, Fir Co. accumulates taxes of $110,000 and must deposit this amount on Tuesday, the next banking day. On Tuesday, Fir Co. accumulates additional taxes of $30,000. Because the $30,000 is not added to the previous $110,000 and is less than $100,000, Fir Co. must deposit the $30,000 by Friday (following the semiweekly deposit schedule).

CAUTION *If you are a monthly schedule depositor and accumulate a $100,000 tax liability on any day, you become a semiweekly schedule depositor on the next day and remain so for at least the rest of the calendar year and for the following calendar year.*

Example. Elm, Inc., started its business on April 1, 2010. On April 9, it paid wages for the first time and accumulated a tax liability of $40,000. On Friday, April 16, 2010, Elm, Inc., paid wages and accumulated a liability of $60,000, bringing its accumulated tax liability to $100,000. Because this was the first year of its business, the tax liability for its lookback period is considered to be zero, and it would be a monthly schedule depositor based on the lookback rules. However, since Elm, Inc., accumulated a $100,000 liability on April 16, it became a semiweekly schedule depositor on April 17. It will be a semiweekly schedule depositor for the remainder of 2010 and for 2011. Elm, Inc., is required to deposit the $100,000 by Monday, April 19, the next banking day.

Accuracy of Deposits Rule

You are required to deposit 100% of your tax liability on or before the deposit due date. However, penalties will not be applied for depositing less than 100% if both of the following conditions are met.

- Any deposit shortfall does not exceed the greater of $100 or 2% of the amount of taxes otherwise required to be deposited and
- The deposit shortfall is paid or deposited by the shortfall makeup date as described below.

Makeup Date for Deposit Shortfall:

1. **Monthly schedule depositor.** Deposit the shortfall or pay it with your return by the due date of your return for the return period in which the shortfall occurred. You may pay the shortfall with your return even if the amount is $2,500 or more.
2. **Semiweekly schedule depositor.** Deposit by the earlier of:
   a. The first Wednesday or Friday (whichever comes first) that falls on or after the 15th of the month following the month in which the shortfall occurred or
   b. The due date of your return (for the return period of the tax liability).

For example, if a semiweekly schedule depositor has a deposit shortfall during July 2010, the shortfall makeup date is August 18, 2010 (Wednesday). However, if the shortfall occurred on the required April 2 (Friday) deposit due date for a March 29 (Monday) pay date, the return due date for the March 29 pay date (April 30) would come before the May 19 (Wednesday) shortfall makeup date. In this case, the shortfall must be deposited by April 30.

How To Deposit

The two methods of depositing employment taxes, including Form 945 taxes, are discussed below. See *Payment with return* on page 20 for exceptions explaining when taxes may be paid with the tax return instead of being deposited.

Electronic deposit requirement. You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2010 if:

- Your total deposits of depository taxes in 2008 were more than $200,000 or
- You were required to use EFTPS in 2009 or any prior year.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% failure-to-deposit penalty. EFTPS is a free service provided by the Department of Treasury. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477. You can also visit the EFTPS website at *www.eftps.gov*.

When you receive your EIN. If you are a new employer that indicated a federal tax obligation when requesting an

EIN, you will be pre-enrolled in EFTPS. You will receive information in your Employer Identification Number (EIN) Package about Express Enrollment and an additional mailing containing your EFTPS personal identification number (PIN) and instructions for activating your PIN. Call the toll-free number located in your "How to Activate Your Enrollment" brochure to activate your enrollment and begin making your payroll tax deposits. Be sure to tell your payroll provider about your EFTPS enrollment. Consider using EFTPS to make your other federal tax payments electronically as well. You should activate your EFTPS enrollment now even if you plan to deposit using FTD coupons (Form 8109) because it may take 5 to 6 weeks to receive the coupons and you may be required to make a deposit while waiting for them.

Depositing on time. For deposits made by EFTPS to be on time, you must initiate the transaction at least 1 business day before the date the deposit is due.

Deposit record. For your records, an Electronic Funds Transfer (EFT) Trace Number will be provided with each successful payment. The number can be used as a receipt or to trace the payment.

Same day payment option. If you fail to initiate a deposit transaction on EFTPS at least 1 business day before the date a deposit is due, you can still make your deposit on time by using the Federal Reserve-Electronic Tax Application (FR-ETA). If you ever need the same-day payment method, you will need to make arrangements with your financial institution ahead of time. FR-ETA allows you to initiate the transaction and have the funds transferred from your financial institution on the same day. Enrollment in EFTPS automatically enrolls you in FR-ETA. Instructions for using FR-ETA are included in your EFTPS enrollment package. Business taxpayers can use FR-ETA even if not enrolled, but may need help to have their financial institution use the proper format for making the payment. The guidelines for financial institutions for making payments using FR-ETA can be found at *www.frbservices.org/files/serviceofferings/pdf/Sameday.pdf*.

Making deposits with FTD coupons. If you are not making deposits by EFTPS, use Form 8109 to make the deposits at an authorized financial institution.

For **new employers**, if you would like to receive a Federal Tax Deposit (FTD) coupon booklet, call 1-800-829-4933. Allow 5 to 6 weeks for delivery. Consider activating your enrollment in EFTPS now so you can make timely deposits of employment taxes while waiting for requested FTD coupons.

The IRS will keep track of the number of FTD coupons you use and automatically will send you additional coupons when you need them. If you do not receive your resupply of FTD coupons, call 1-800-829-4933. You can have the FTD coupon books sent to a branch office, tax preparer, or service bureau that is making your deposits by showing that address on Form 8109-C, FTD Address Change, which is in the FTD coupon book. Filing Form 8109-C will not change your address of record; it will change only the address where the FTD coupons are mailed. The FTD coupons will be preprinted with your name, address, and EIN. They have entry boxes for indicating the type of tax and the tax period for which the deposit is made.

It is very important to clearly mark the correct type of tax and tax period on each FTD coupon. This information is used by the IRS to credit your account.

If you have branch offices depositing taxes, give them FTD coupons and complete instructions so they can deposit the taxes when due.

Please use only **your** FTD coupons. If you use anyone else's FTD coupon, you may be subject to a failure-to-deposit penalty. This is because your account will be underpaid by the amount of the deposit credited to the other person's account. See *Deposit Penalties* on page 25 for penalty amounts.

How to deposit with a FTD coupon. Mail or deliver each FTD coupon and a single payment covering the taxes to be deposited to an authorized depositary. An authorized depositary is a financial institution (for example, a commercial bank) authorized to accept federal tax deposits. Follow the instructions in the FTD coupon book. Make your check or money order payable to the depositary. To help ensure proper crediting of your account, include your EIN, the type of tax (for example, Form 941), and the tax period to which the payment applies on your check or money order.

Authorized depositaries must accept cash, a postal money order drawn to the order of the depositary, or a check or draft drawn on and to the order of the depositary. You may deposit taxes with a check drawn on another financial institution only if the depositary is willing to accept that form of payment. Be sure the financial institution where you make deposits is an authorized depositary. Deposits made at an unauthorized institution may be subject to the failure-to-deposit penalty.

If you prefer, you may mail your coupon and payment to: Financial Agent, Federal Tax Deposit Processing, P.O. Box 970030, St. Louis, MO 63197. Make your check or money order payable to "Financial Agent."

The Financial Agent cannot process foreign checks. If you send a check written on a foreign bank to pay a federal tax deposit, you generally will be charged a deposit penalty and will receive a bill in the mail. A foreign bank is a financial institution that is not incorporated under the laws of the United States, any U.S. state, any U.S. possession, or the District of Columbia.

You may enroll in the Electronic Federal Tax Payment System (EFTPS), which will allow you to make electronic payments at no charge to you. Instructions for enrollment are available at *www.eftps.gov*.

You may also make the payments by wire transfer, through EFTPS, without being enrolled. A same day payment is initiated by your financial institution and can be used by businesses for making EFTPS tax payments. Please check with your financial institution regarding availability, deadlines, and costs. Generally, your bank will charge you a fee for payments made this way.

Depositing on time. The IRS determines whether deposits are on time by the date they are received by an authorized depositary. To be considered timely, the funds must be available to the depositary on the deposit due date before the institution's daily cutoff deadline. Contact your local depositary for information concerning check clearance and cutoff schedules. However, a deposit received by the authorized depositary after the due date will be considered timely if the taxpayer establishes it was mailed in the United States in a properly addressed, postage prepaid envelope at least 2 days before the due date.

CAUTION *If you must deposit any taxes more than once a month, any deposit of $20,000 or more must be received by the authorized depositary by its due date to be timely. See Internal Revenue Code section 7502(e)(3) for more information.*

Depositing without an EIN. If you have applied for an EIN but have not received it and you must make a deposit, make the deposit with the IRS. Do not make the deposit at an authorized depositary. Make it payable to the "United States Treasury" and show on it your name (as shown on Form SS-4), address, kind of tax, period covered, and date you applied for an EIN. Send your deposit with an explanation to the IRS office where you will file your return. IRS office addresses are in the instructions for your return and on the IRS website at *www.irs.gov/businesses* under

"Where To File." Use the "Without a payment" address. Do not use Form 8109-B, Federal Tax Deposit Coupon, in this situation.

Depositing without Form 8109. If you have an EIN but do not have a preprinted Form 8109, you may use Form 8109-B to make deposits. Form 8109-B is an over-the-counter FTD coupon that is not preprinted with your identifying information. You may get this form by visiting an IRS taxpayer assistance center. Be sure to have your EIN with you. You will not be able to obtain Form 8109-B by calling 1-800-TAX-FORM.

Use Form 8109-B to make deposits only if:

- You are a new employer and you have been assigned an EIN, but you have not received your initial supply of Forms 8109 or
- You have not received your resupply of preprinted Forms 8109.

Deposit record. For your records, a stub is provided with each FTD coupon in the coupon book. The FTD coupon itself will not be returned. It is used to credit your account. Your cancelled check, bank receipt, or money order receipt is your deposit record.

How to claim credit for overpayments. If you deposited more than the right amount of taxes for a quarter, you can choose on Form 941 for that quarter (or on Form 944 for that year) to have the overpayment refunded or applied as a credit to your next return. Do not ask the depositary or EFTPS to request a refund from the IRS for you.

Deposit Penalties

TIP *Although the deposit penalties information provided below refers specifically to Form 941, these rules also apply to Form 945 and Form 944 (if the employer required to file Form 944 does not qualify for the exception to the deposit requirements discussed on page 20 under* Payment with return*).*

Penalties may apply if you do not make required deposits on time, if you make deposits for less than the required amount, or if you do not use EFTPS when required. The penalties do not apply if any failure to make a proper and timely deposit was due to reasonable cause and not to willful neglect. The IRS may also waive penalties if you inadvertently fail to deposit in the first quarter you were required to deposit any employment tax, or in the first quarter during which your frequency of deposits changed, if you timely filed your employment tax return.

For amounts not properly or timely deposited, the penalty rates are as follows.

2% - Deposits made 1 to 5 days late.

5% - Deposits made 6 to 15 days late.

10% - Deposits made 16 or more days late. Also applies to amounts paid within 10 days of the date of the first notice the IRS sent asking for the tax due.

10% - Deposits made at an unauthorized financial institution, paid directly to the IRS, or paid with your tax return. But see *Depositing without an EIN* on page 24 and *Payment with return* on page 20 for exceptions.

10% - Amounts subject to electronic deposit requirements but not deposited using EFTPS.

15% - Amounts still unpaid more than 10 days after the date of the first notice the IRS sent asking for the tax due or the day on which you received notice and demand for immediate payment, whichever is earlier.

Late deposit penalty amounts are determined using calendar days, starting from the due date of the liability.

Special rule for former Form 944 filers. If you filed Form 944 for the prior year and file Forms 941 for the current year, the failure-to-deposit penalty will not apply to a late deposit of employment taxes for January of the current year if the taxes are deposited in full by March 15 of the current year.

Order in which deposits are applied. Deposits generally are applied to the most recent tax liability within the quarter. If you receive a failure-to-deposit penalty notice, you may designate how your deposits are to be applied in order to minimize the amount of the penalty if you do so within 90 days of the date of the notice. Follow the instructions on the penalty notice you received. For more information on designating deposits, see Revenue Procedure 2001-58. You can find Revenue Procedure 2001-58 on page 579 of Internal Revenue Bulletin 2001-50 at *www.irs.gov/pub/irs-irbs/irb01-50.pdf.*

Example. Cedar, Inc. is required to make a deposit of $1,000 on June 15 and $1,500 on July 15. It does not make the deposit on June 15. On July 15, Cedar, Inc. deposits $2,000. Under the deposits rule, which applies deposits to the most recent tax liability, $1,500 of the deposit is applied to the July 15 deposit and the remaining $500 is applied to the June deposit. Accordingly, $500 of the June 15 liability remains undeposited. The penalty on this underdeposit will apply as explained on page 25.

Trust fund recovery penalty. If federal income, social security, and Medicare taxes that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the trust fund recovery penalty may apply. The penalty is the full amount of the unpaid trust fund tax. This penalty may apply to you if these unpaid taxes cannot be immediately collected from the employer or business.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or an employee of a sole proprietorship. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

Willfully means voluntarily, consciously, and intentionally. A responsible person acts willfully if the person knows the required actions are not taking place.

Separate accounting when deposits are not made or withheld taxes are not paid. Separate accounting may be required if you do not pay over withheld employee social security, Medicare, or income taxes; deposit required taxes; make required payments; or file tax returns. In this case, you would receive written notice from the IRS requiring you to deposit taxes into a special trust account for the U.S. Government. You would also have to file monthly tax returns on Form 941-M, Employer's Monthly Federal Tax Return.

You may be charged with criminal penalties if you do not comply with the special bank deposit requirements for the special trust account for the U.S. Government.

"Averaged" failure-to-deposit penalty. IRS may assess an "averaged" failure-to-deposit (FTD) penalty of 2% to 10% if you are a monthly schedule depositor and did not properly complete line 17 of Form 941 when your tax liability (line 10) shown on Form 941 equaled or exceeded $2,500.

The IRS may also assess an "averaged" FTD penalty of 2% to 10% if you are a semiweekly schedule depositor and your tax liability (line 10) shown on Form 941 equaled or exceeded $2,500 and you:

- Completed line 17 of Form 941 instead of Schedule B (Form 941),
- Failed to attach a properly completed Schedule B (Form 941), or
- Improperly completed Schedule B (Form 941) by, for example, entering tax deposits instead of tax liabilities in the numbered spaces.

The FTD penalty is figured by distributing your total tax liability shown on line 10 of Form 941 equally throughout the tax period. As a result, your deposits and payments may not be counted as timely because the actual dates of your tax liabilities cannot be accurately determined.

You can avoid an "averaged" FTD penalty by reviewing your return before you file it. Follow these steps before submitting your Form 941.

- If you are a monthly schedule depositor, report your tax liabilities (not your deposits) in the monthly entry spaces on line 17 of Form 941.
- If you are a semiweekly schedule depositor, report your tax liabilities (not your deposits) on Schedule B (Form 941) in the lines that represent the dates your employees were paid.
- Verify your total liability shown on line 17 of Form 941 or the bottom of Schedule B (Form 941) equals your tax liability shown on line 10 of Form 941.
- Do not show negative amounts on line 17 of Form 941 or Schedule B (Form 941).
- For prior period errors discovered after December 31, 2008, **do not** adjust your tax liabilities reported on line 17 of Form 941 or on Schedule B (Form 941).

12. Filing Form 941 or Form 944

Form 941. Each quarter, all employers who pay wages subject to income tax withholding (including withholding on sick pay and supplemental unemployment benefits) or social security and Medicare taxes must file Form 941, Employer's QUARTERLY Federal Tax Return, unless the employer is required to file Form 944 or the following exceptions apply. Form 941 must be filed by the last day of the month that follows the end of the quarter. See the *Calendar* on page 2.

Form 944. If you receive written notification you qualify for the Form 944 program, you must file Form 944, Employer's ANNUAL Federal Tax Return, instead of Form 941. If you received this notification, but prefer to file Form 941, you can request to have your filing requirement changed to Form 941 if you satisfy certain requirements. See the Instructions for Form 944 for details. Employers who must file Form 944 have until the last day of the month that follows the end of the year to file Form 944.

Exceptions. The following exceptions apply to the filing requirements for Forms 941 and 944.

- **Seasonal employers who no longer file for quarters when they regularly have no tax liability because they have paid no wages.** To alert the IRS you will not have to file a return for one or more quarters during the year, check the "Seasonal employer" box on line 19 of Form 941. When you fill out Form 941, be sure to check the box on the top of the form that corresponds to the quarter reported. Generally, the IRS will not inquire about unfiled returns if at least one taxable return is filed each year. However, you must check the "Seasonal employer" box on **every** Form 941 you file. Otherwise, the IRS will expect a return to be filed for each quarter.
- **Household employers reporting social security and Medicare taxes and/or withheld income tax.** If you are a sole proprietor and file Form 941 or Form 944 for business employees, you may include taxes for household employees on your Form 941 or Form 944. Otherwise, report social security and Medicare taxes and income tax withholding for household employees on Schedule H (Form 1040), Household Employment Taxes. See Publication 926, Household Employer's Tax Guide, for more information.
- **Employers reporting wages for employees in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or Puerto Rico.** If your employees are not subject to U.S. income tax withholding, use Form 941-SS or Form 944-SS. Employers in Puerto Rico use Form 941-PR or Form 944-PR. If you have both employees who are subject to U.S. income tax withholding and employees who are not subject to U.S. income tax withholding, you can file only Form 941 (or Form 944) and include all your employees' wages on that form. For more information, see Publication 80 (Circular SS) Federal Tax Guide for Employers in US Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.
- **Agricultural employers reporting social security, Medicare, and withheld income taxes.** Report these taxes on Form 943, Employer's Annual Federal Tax Return for Agricultural Employees.

Form 941 e-file. The Form 941 e-file program allows a taxpayer to electronically file Form 941 or Form 944 using a personal computer, modem, and commercial tax preparation software. For more information, visit the IRS website at *www.irs.gov* and click on the *IRS e-file* link, or call 1-866-255-0654.

Electronic filing by reporting agents. Reporting agents filing Forms 941 or Form 944 for groups of taxpayers can file them electronically. See *Reporting Agents* in section 7 of Publication 15-A.

Penalties. For each whole or part month a return is not filed when required (disregarding any extensions of the filing deadline), there is a failure-to-file penalty of 5% of the unpaid tax due with that return. The maximum penalty is generally 25% of the tax due. Also, for each whole or part month the tax is paid late (disregarding any extensions of the payment deadline), there is a failure-to-pay penalty of 0.5% per month of the amount of tax. For individual filers

only, the failure-to-pay penalty is reduced from 0.5% per month to 0.25% per month if an installment agreement is in effect. You must have filed your return on or before the due date of the return to qualify for the reduced penalty. The maximum amount of the failure-to-pay penalty is also 25% of the tax due. If both penalties apply in any month, the failure-to-file penalty is reduced by the amount of the failure-to-pay penalty. The penalties will not be charged if you have a reasonable cause for failing to file or pay. If you receive a penalty notice, you can provide an explanation of why you believe reasonable cause exists.

Note. In addition to any penalties, interest accrues from the due date of the tax on any unpaid balance.

If income, social security, or Medicare taxes that must be withheld are not withheld or are not paid, you may be personally liable for the trust fund recovery penalty. See *Trust fund recovery penalty* in section 11.

Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure tax returns are filed and all taxes are paid or deposited correctly and on time.

Do not file more than one Form 941 per quarter or more than one Form 944 per year. Employers with multiple locations or divisions must file only one Form 941 per quarter or one Form 944 per year. Filing more than one return may result in processing delays and may require correspondence between you and the IRS. For information on making adjustments to previously filed returns, see section 13.

Reminders about filing.

- Do not report more than 1 calendar quarter on a Form 941.
- Use the preaddressed form mailed to you. If you do not have the form, get one from the IRS in time to file the return when due.
- If you use a form that is not preaddressed, show your name and EIN on it. Be sure they are exactly as they appeared on earlier returns.
- See the Instructions for Form 941 or the Instructions for Form 944 for information on preparing the form.

Final return. If you go out of business, you must file a final return for the last quarter (last year for Form 944) in which wages are paid. If you continue to pay wages or other compensation for periods following termination of your business, you must file returns for those periods. See the Instructions for Form 941 or the Instructions for Form 944 for details on how to file a final return.

If you are required to file a final return, you are also required to furnish Forms W-2 to your employees by the due date of your final return. File Forms W-2 and W-3 with the SSA by the last day of the month that follows the due date of your final return. Do not send an original or copy of your Form 941 or Form 944 to the SSA. See the Instructions for Forms W-2 and W-3 for more information.

Filing late returns for previous years. If possible, get a copy of Form 941 or Form 944 (and separate instructions) with a revision date showing the year for which your delinquent return is being filed. See *Quick and Easy Access to IRS Tax Help and Tax Products* on page 73 for various ways to secure any necessary forms and instructions. Contact the IRS at 1-800-829-4933 if you have any questions.

Table 3. **Social Security and Medicare Tax Rates** *(for 3 prior years)*

Calendar Year	Wage Base Limit (each employee)	Tax Rate on Taxable Wages and Tips
2009–Social Security	$106,800	12.4%
2009–Medicare	All Wages	2.9%
2008–Social Security	$102,000	12.4%
2008–Medicare	All Wages	2.9%
2007–Social Security	$97,500	12.4%
2007–Medicare	All Wages	2.9%

Reconciling Forms W-2, W-3, and 941 or 944. When there are discrepancies between Forms 941 or Form 944 filed with the IRS and Forms W-2 and W-3 filed with the SSA, the IRS must contact you to resolve the discrepancies.

To help reduce discrepancies:

1. Report bonuses as wages and as social security and Medicare wages on Forms W-2 and on Form 941 or Form 944,
2. Report both social security and Medicare wages and taxes separately on Forms W-2, W-3, 941, and 944,
3. Report employee share of social security taxes on Form W-2 in the box for social security tax withheld (box 4), not as social security wages,
4. Report employee share of Medicare taxes on Form W-2 in the box for Medicare tax withheld (box 6), not as Medicare wages,
5. Make sure the social security wage amount for each employee does not exceed the annual social security wage base limit (for example, $106,800 for 2010),
6. Do not report noncash wages that are not subject to social security or Medicare taxes as social security or Medicare wages,
7. If you used an EIN on any Form 941 or Form 944 for the year that is different from the EIN reported on Form W-3, enter the other EIN on Form W-3 in the box for "Other EIN used this year,"
8. Be sure the amounts on Form W-3 are the total of amounts from Forms W-2, and
9. Reconcile Form W-3 with your four quarterly Forms 941 or annual Form 944 by comparing amounts reported for:
   a. Income tax withholding;
   b. Social security wages, social security tips, and Medicare wages and tips. Form W-3 should include Forms 941 or Form 944 adjustments only for the current year (that is, if the Form 941 or Form 944 adjustments include amounts for a prior year, do not report those prior year adjustments on the current-year Forms W-2 and W-3);
   c. Social security and Medicare taxes. The amounts shown on the four quarterly Forms 941 or the annual Form 944 , including current-year adjustments, should be approximately twice the amounts shown on Form W-3. This is because

Form 941 and Form 944 include both the employer and employee shares of social security and Medicare taxes; and

d. Advance earned income credit (EIC).

Do not report on Form 941 or Form 944 backup withholding or income tax withholding on nonpayroll payments such as pensions, annuities, and gambling winnings. Nonpayroll withholding must be reported on Form 945, Annual Return of Withheld Federal Income Tax. See the Instructions for Form 945 for details. Income tax withholding required to be reported on Forms 1099 or W-2G must be reported on Form 945. Only taxes and withholding properly reported on Form W-2 should be reported on Form 941 or Form 944.

Amounts reported on Forms W-2, W-3, and Forms 941 or Form 944 may not match for valid reasons. If they do not match, you should determine the reasons they are valid. Keep your reconciliation so you will have a record of why amounts did not match in case there are inquiries from the IRS or the SSA. See the Instructions for Schedule D (Form 941) if you need to explain any discrepancies that were caused by an acquisition, statutory merger, or consolidation.

13. Reporting Corrections to Form 941 or Form 944

CAUTION *There is a new process for correcting errors on a previously filed Form 941 or Form 944, beginning with errors discovered after December 31, 2008. Corrections to a previously filed Form 941 or Form 944 will be made on new Form 941-X or new Form 944-X. For more information, see the Instructions for Form 941-X or Form 944-X. Current period adjustments will continue to be reported on Form 941 or Form 944. See the Instructions for Form 941 (or the Instructions for Form 944). There are also new Forms 943-X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund, 945-X, Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund, and CT-1 X, Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund, report corrections on the corresponding returns. All of the X forms will be used by employers or payers to make corrections or claim refunds or abatements of employment taxes.*

Current Period Adjustments

In certain cases, amounts reported as social security and Medicare taxes in column 2 of lines 5a, 5b, and 5c of Form 941 (column 2 of lines 4a, 4b, and 4c for Form 944) must be adjusted to arrive at your correct tax liability (for example, excluding amounts withheld by a third-party payor or amounts you were not required to withhold). Current period adjustments are reported on lines 7a, 7b, and 7c of Form 941 and line 6 of Form 944 and include the following:

Adjustment of tax on tips. If, by the 10th of the month after the month you received an employee's report on tips, you do not have enough employee funds available to withhold the employee's share of social security and Medicare taxes, you no longer have to collect it. However, report the entire amount of these tips on lines 5b (social security tips) and 5c (Medicare wages and tips) (lines 4b and 4c of Form 944). Include as a negative adjustment on line 7c of Form 941 or line 6 of Form 944 the total uncollected employee share of the social security and Medicare taxes.

Adjustment of tax on group-term life insurance premiums paid for former employees. The employee share of social security and Medicare taxes on group-term life insurance over $50,000 for a former employee is paid by the former employee with his or her tax return and is not collected by the employer. However, include all social security and Medicare taxes for such coverage on lines 5a and 5c (social security and Medicare taxes) (lines 4a and 4c of Form 944), and back out the amount of the employee share of these taxes as a negative adjustment on line 7c of Form 941 or line 6 of Form 944. See Publication 15-B for more information on group-term life insurance.

Adjustment of tax on third-party sick pay. Report both the employer and employee shares of social security and Medicare taxes for sick pay on lines 5a and 5c of Form 941 (lines 4a and 4c of Form 944). Show as a negative adjustment on line 7b of Form 941 or line 6 of Form 944 the social security and Medicare taxes withheld on sick pay by a third-party payor. See section 6 of Publication 15-A for more information.

Fractions-of-cents adjustment. If there is a small difference between total taxes after adjustment for advance EIC (line 10) (line 9 of Form 944) and total deposits (line 13) (line 12 of Form 944), it may have been caused, all or in part, by rounding to the nearest cent each time you computed payroll. This rounding occurs when you figure the amount of social security and Medicare tax to be withheld and deposited from each employee's wages. The IRS refers to rounding differences relating to employee withholding of social security and Medicare taxes as "fractions-of-cents" adjustments. If you pay your taxes with Form 941 (or Form 944) instead of making deposits because your total taxes for the quarter (year for Form 944) are less than $2,500, you also may report a fractions-of-cents adjustment.

To determine if you have a fractions-of-cents adjustment, multiply the total wages and tips for the quarter subject to:

- Social security tax (reported on lines 5a, column 1, and 5b, column 1) (or lines 4a and 4b of column 1 on Form 944) by 6.2% (.062) and
- Medicare tax (reported on line 5c, column 1) (line 4c of column 1 on Form 944) by 1.45% (.0145).

Compare these amounts (the employee share of social security and Medicare taxes) with the total social security and Medicare taxes actually withheld from employees for the quarter (from your payroll records). The difference, positive or negative, is your fractions-of-cents adjustment to be reported on line 7a of Form 941 or line 6 of the 2009 Form 944. If the actual amount withheld is less, report a negative adjustment using a minus sign (if possible, otherwise use parentheses) in the entry space. If the actual amount is more, report a positive adjustment.

TIP *For the above adjustments, prepare and retain a brief supporting statement explaining the nature and amount of each. Do not attach the statement to Form 941 or Form 944.*

Example. Cedar, Inc. was entitled to the following current period adjustments.

- **Third-party sick pay.** Cedar, Inc. included taxes of $2,000 for sick pay on lines 5a, column 2 and 5c, column 2 for social security and Medicare taxes. However, the third-party payor of the sick pay withheld and paid the employee share ($1,000) of these taxes. Cedar, Inc. is entitled to a $1,000 sick pay adjustment (negative) on line 7b.

Current Period Adjustment Example (Form 941)

7 TAX ADJUSTMENTS (Read the instructions for line 7 before completing lines 7a through 7c.):

7a Current quarter's fractions of cents	1.44	
7b Current quarter's sick pay	-1000.00	
7c Current quarter's adjustments for tips and group-term life insurance	-200.00	
7d **TOTAL ADJUSTMENTS** (Combine all amounts: lines 7a through 7c.)	7d	-1198.56

- **Fractions of cents.** Cedar, Inc. determined the amounts withheld and deposited for social security and Medicare taxes during the quarter were a net $1.44 more than the employee share of the amount figured on lines 5a, column 2, 5b, column 2, and 5c, column 2 (social security and Medicare taxes). This difference was caused by adding or dropping fractions of cents when figuring social security and Medicare taxes for each wage payment. Cedar, Inc. must report a positive $1.44 fractions-of-cents adjustment on line 7a.
- **Life insurance premiums.** Cedar, Inc. paid group-term life insurance premiums for policies in excess of $50,000 for former employees. The former employees must pay the employee share of the social security and Medicare taxes ($200) on the policies. However, Cedar, Inc. must include the employee share of these taxes with the social security and Medicare taxes reported on lines 5a, column 2 and 5c, column 2 of Form 941. Therefore, Cedar, Inc. is entitled to a negative $200 adjustment on line 7c.

Cedar, Inc. reported these adjustments on line 7 of Form 941 as shown in the *Current Period Adjustment Example* above.

No change to record of federal tax liability. Do not make any changes to your record of federal tax liability reported on line 17 of Form 941 or Schedule B (Form 941) (Form 945-A for Form 944 filers) for current period adjustments. The amounts reported on the record reflect the actual amounts you withheld from employees' wages for social security and Medicare taxes. Because the current period adjustments make the amounts reported on lines 5a, column 2, 5b, column 2, and 5c, column 2 of Form 941 (lines 4a, 4b, and 4c of column 2 for Form 944) equal the actual amounts you withheld (the amounts reported on the record), no additional changes to the record of federal tax liability are necessary for these adjustments.

Prior Period Adjustments

New forms. The Internal Revenue Service has developed Form 941-X and Form 944-X to replace Form 941c, Supporting Statement to Correct Information. There are also new Forms 943-X, 945-X, and CT-1X to report corrections on the corresponding returns.

Form 941-X and Form 944-X also replace Form 843, Claim for Refund or Request for Abatement, for employers to request a refund or abatement of overreported employment taxes. Continue to use Form 843 when requesting a refund or abatement of assessed interest or penalties.

Background. Treasury Decision 9405 changed the process for making interest-free adjustments to employment taxes reported on Form 941 and Form 944 and for filing a claim for refund of employment taxes. Treasury Decision 9405, 2008-32 I.R.B. 293, is available at *www.irs.gov/irb/2008-32_irb/ar13.html*. You will use the adjustment process if you underreported employment taxes and are making a payment, or if you overreported employment taxes and will be applying the credit to the Form 941 or Form 944 period during which you file Form 941-X or Form 944-X. You will use the claim process if you overreported employment taxes and are requesting a refund or abatement of the overreported amount. We use the terms "correct" and "corrections" to include interest-free adjustments under sections 6205 and 6413, and claims for refund and abatement under sections 6402, 6414, and 6404 of the Internal Revenue Code.

New process for correcting employment taxes. After December 31, 2008, when you discover an error on a previously filed Form 941 or Form 944, you **must:**

- correct that error using Form 941-X or Form 944-X,
- file a separate Form 941-X or Form 944-X for each Form 941 or Form 944 you are correcting, and
- file Form 941-X or Form 944-X separately. **Do not** file with Form 941 or Form 944.

Beginning with the first quarter of 2009, Form 941 no longer provides adjustment lines (formerly lines 7d through 7g) for correcting prior quarter errors. Beginning with calendar year 2009, Form 944 will no longer provide adjustment lines (formerly lines 6b through 6e) for correcting prior year errors. However, continue to report current quarter adjustments for fractions of cents, third-party sick pay, tips, and group-term life insurance on Form 941 using lines 7a through 7c, and on Form 944 using line 6.

Report the correction of underreported and overreported amounts for the same tax period on a single Form 941-X or Form 944-X unless you are requesting a refund. If you are requesting a refund and are correcting both underreported and overreported amounts, file one Form 941-X or Form 944-X correcting the underreported amounts only

and a second Form 941-X or Form 944-X correcting the overreported amounts.

See the chart on the back of Form 941-X or Form 944-X for help in choosing whether to use the adjustment process or the claim process. See the Instructions for Form 941-X or the Instructions for Form 944-X for details on how to make the adjustment or claim for refund or abatement.

Income tax withholding adjustments. In a current calendar year correct prior quarter income tax withholding errors by making the correction on Form 941-X when you discover the error.

You may make an adjustment only to correct income tax withholding errors discovered during the same calendar year in which you paid the wages. This is because the employee uses the amount shown on Form W-2 as a credit when filing his or her income tax return (Form 1040, etc.).

You cannot adjust amounts reported as income tax withheld in a prior calendar year unless it is to correct an administrative error or section 3509 applies. An administrative error occurs if the amount you entered on Form 941 or Form 944 is not the amount you actually withheld. For example, if the total income tax actually withheld was incorrectly reported on Form 941 or Form 944 due to a mathematical or transposition error, this would be an administrative error. The administrative error adjustment corrects the amount reported on Form 941 or Form 944 to agree with the amount actually withheld from employees and reported on their Forms W-2.

Collecting underwithheld taxes from employees. If you withheld no income, social security, or Medicare taxes or less than the correct amount from an employee's wages, you can make it up from later pay to that employee. But you are the one who owes the underpayment. Reimbursement is a matter for settlement between you and the employee. Underwithheld income tax must be recovered from the employee on or before the last day of the calendar year. There are special rules for tax on tips (see section 6) and fringe benefits (see section 5).

Refunding amounts incorrectly withheld from employees. If you withheld more than the correct amount of income, social security, or Medicare taxes from wages paid, repay or reimburse the employee the excess. Any excess income tax withholding must be repaid or reimbursed to the employee before the end of the calendar year in which it was withheld. Keep in your records the employee's written receipt showing the date and amount of the repayment or record of reimbursement. If you did not repay or reimburse the employee, you must report and pay each excess amount when you file Form 941 for the quarter (or Form 944 for the year) in which you withheld too much tax.

Correcting filed Forms W-2 and W-3. When adjustments are made to correct wages and social security and Medicare taxes because of a change in the wage totals reported for a previous year, you also need to file Form W-2c, Corrected Wage and Tax Statement, and Form W-3c, Transmittal of Corrected Wage and Tax Statements, with the SSA. Up to five Forms W-2c per Form W-3c may now be filed per session over the Internet, with no limit on the number of sessions. For more information, visit the Social Security Administration's Employer W-2 Filing Instructions & Information webpage at *www.socialsecurity.gov/employer*.

Exceptions to interest-free corrections of employment taxes. A correction will **not** be eligible for interest-free treatment if

- the failure to report relates to an issue raised in an IRS examination of a prior return or
- the employer knowingly underreported its employment tax liability.

A correction will **not** be eligible for interest-free treatment after the **earlier** of the following:

- Receipt of an IRS notice and demand for payment after assessment or
- Receipt of an IRS Notice of Determination of Worker Classification (Letter 3523).

Wage Repayments

If an employee repays you for wages received in error, do not offset the repayments against current-year wages unless the repayments are for amounts received in error in the current year.

Repayment of current year wages. If you receive repayments for wages paid during a prior quarter in the current year, report adjustments on Form 941-X to recover income tax withholding and social security and Medicare taxes for the repaid wages.

Repayment of prior year wages. If you receive repayments for wages paid during a prior year, report an adjustment on Form 941-X or Form 944-X to recover the social security and Medicare taxes. You may not make an adjustment for income tax withholding because the wages were wages and income to the employee for the prior year.

You also must file Forms W-2c and W-3c with the SSA to correct social security and Medicare wages and taxes. Do not correct wages (box 1) on Form W-2c for the amount paid in error. Give a copy of Form W-2c to the employee.

Employee reporting of repayment. The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee is not entitled to file an amended return (Form 1040X) to recover the income tax on these wages. Instead, the employee is entitled to a deduction (or credit in some cases) for the repaid wages on his or her income tax return for the year of repayment.

14. Federal Unemployment (FUTA) Tax

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a federal and a state unemployment tax. A list of state unemployment agencies, including addresses and phone numbers, is available in the Instructions for Form 940. Only the employer pays FUTA tax; it is not withheld from the employee's wages. For more information, see the Instructions for Form 940.

TIP *Services rendered after December 20, 2000, to a federally recognized Indian tribal government (or any subdivision, subsidiary, or business wholly owned by such an Indian tribe) are exempt from FUTA tax, subject to the tribe's compliance with state law. For more information, see Internal Revenue Code section 3309(d).*

Who must pay? Use the following three tests to determine whether you must pay FUTA tax. Each test applies to a different category of employee, and each is independent of the others. If a test describes your situation, you are subject to FUTA tax on the wages you pay to employees in that category during the current calendar year.

1. **General test.**
   You are subject to FUTA tax in 2010 on the wages you pay employees who are not farmworkers or household workers if in the current or preceding calendar year:

   a. You paid wages of $1,500 or more in any calendar quarter in 2009 or 2010, or

   b. You had one or more employees for at least some part of a day in any 20 or more different weeks in 2009 or 20 or more different weeks in 2010.

2. **Household employees test.**
   You are subject to FUTA tax if you paid total cash wages of $1,000 or more to household employees in any calendar quarter in 2009 or 2010. A household employee is an employee who performs household work in a private home, local college club, or local fraternity or sorority chapter.

3. **Farmworkers test.**
   You are subject to FUTA tax on the wages you pay to farmworkers if:

   a. You paid cash wages of $20,000 or more to farmworkers during any calendar quarter in 2009 or 2010, or

   b. You employed 10 or more farmworkers during at least some part of a day (whether or not at the same time) during any 20 or more different weeks in 2008 or 20 or more different weeks in 2009.

Computing FUTA tax. For 2009 and 2010 the FUTA tax rate is 6.2%. The tax applies to the first $7,000 you pay to each employee as wages during the year. The $7,000 is the federal wage base. Your state wage base may be different. Generally, you can take a credit against your FUTA tax for amounts you paid into state unemployment funds. This credit cannot be more than 5.4% of taxable wages. If you are entitled to the maximum 5.4% credit, the FUTA tax rate after the credit is 0.8%.

Successor employer. If you acquired a business from an employer who was liable for FUTA tax, you may be able to count the wages that employer paid to the employees who continue to work for you when you figure the $7,000 FUTA wage base. See the Instructions for Form 940.

Depositing FUTA tax. For deposit purposes, figure FUTA tax quarterly. Determine your FUTA tax liability by multiplying the amount of taxable wages paid during the quarter by .008 (0.8%). Stop depositing FUTA tax on an employee's wages when he or she reaches $7,000 in taxable wages for the calendar year. If any part of the wages subject to FUTA is exempt from state unemployment tax, you may have to deposit more than the tax using the 0.8% rate. For example, in certain states, wages paid to corporate officers, certain payments of sick pay by unions, and certain fringe benefits are exempt from state unemployment tax.

If your FUTA tax liability for a quarter is $500 or less, you do not have to deposit the tax. Instead, you may carry it forward and add it to the liability figured in the next quarter to see if you must make a deposit. If your FUTA tax liability for any calendar quarter in 2010 is over $500 (including any FUTA tax carried forward from an earlier quarter), you must deposit the tax using EFTPS or at an authorized financial institution using Form 8109. See section 11 for information on these two deposit methods.

Household employees. You are not required to deposit FUTA taxes for household employees unless you report their wages on Form 941, Form 944, or Form 943. See Publication 926, Household Employer's Tax Guide, for more information.

When to deposit. Deposit the FUTA tax by the last day of the first month that follows the end of the quarter. If the due date (below) for making your deposit falls on a Saturday, Sunday, or legal holiday, you may make your deposit on the next business day.

If your liability for the fourth quarter (plus any undeposited amount from any earlier quarter) is over $500, deposit the entire amount by the due date of Form 940 (January 31). If it is $500 or less, you can make a deposit, pay the tax with a credit or debit card, or pay the tax with your 2009 Form 940 by January 31.See Credit and Debit Card Payments on page 3.

Table 4. **When to Deposit FUTA Taxes**

Quarter	Ending	Due Date
Jan.–Feb.–Mar.	Mar. 31	Apr. 30
Apr.–May–June	June 30	July 31
July–Aug.–Sept.	Sept. 30	Oct. 31
Oct.–Nov.–Dec.	Dec. 31	Jan. 31

Reporting FUTA tax. Use Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, to report FUTA tax. File 2009 Form 940 by February 1, 2010. However, if you deposited all FUTA tax when due, you may file on or before February 10, 2010. If you do not receive Form 940, you can get a form by calling 1-800-TAX-FORM (1-800-829-3676).

Household employees. If you did not report employment taxes for household employees on Form 941, Form 944, or Form 943, report FUTA tax for these employees on Schedule H (Form 1040), Household Employment Taxes. See Publication 926 for more information. You must have an EIN to file Schedule H (Form 1040).

Electronic filing by reporting agents. Reporting agents filing Forms 940 for groups of taxpayers can file them electronically. See the *Reporting Agent* discussion in section 7 of Publication 15-A.

15. Special Rules for Various Types of Services and Payments

Section references are to the Internal Revenue Code unless otherwise noted.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Aliens, nonresident.	See Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, and Publication 519, U.S. Tax Guide for Aliens.		
Aliens, resident			
1. Service performed in the U.S.	Same as U.S. citizen.	Same as U.S. citizen. (Exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S.)	Same as U.S. citizen.
2. Service performed outside U.S.	Withhold	Taxable if (1) working for an American employer or (2) an American employer by agreement covers U.S. citizens and residents employed by its foreign affiliates.	Exempt unless on or in connection with an American vessel or aircraft and either performed under contract made in U.S., or alien is employed on such vessel or aircraft when it touches U.S. port.
Cafeteria plan benefits under section 125.	If employee chooses cash, subject to all employment taxes. If employee chooses another benefit, the treatment is the same as if the benefit was provided outside the plan. See Publication 15-B for more information.		
Deceased worker:			
1. Wages paid to beneficiary or estate in same calendar year as worker's death. See the instructions for Forms W-2 and W-3 for details.	Exempt	Taxable	Taxable
2. Wages paid to beneficiary or estate after calendar year of worker's death.	Exempt	Exempt	Exempt
Dependent care assistance programs.	Exempt to the extent it is reasonable to believe amounts are excludable from gross income under section 129.		
Disabled worker's wages paid after year in which worker became entitled to disability insurance benefits under the Social Security Act.	Withhold	Exempt, if worker did not perform any service for employer during period for which payment is made.	Taxable
Employee business expense reimbursement:			
1. Accountable plan.			
a. Amounts not exceeding specified government rate for per diem or standard mileage.	Exempt	Exempt	Exempt
b. Amounts in excess of specified government rate for per diem or standard mileage.	Withhold	Taxable	Taxable
2. Nonaccountable plan. See page 11 for details.	Withhold	Taxable	Taxable
Family employees:			
1. Child employed by parent (or partnership in which each partner is a parent of the child).	Withhold	Exempt until age 18; age 21 for domestic service.	Exempt until age 21
2. Parent employed by child.	Withhold	Taxable if in course of the son's or daughter's business. For domestic services, see section 3.	Exempt
3. Spouse employed by spouse. See section 3 for more information.	Withhold	Taxable if in course of spouse's business.	Exempt
Fishing and related activities.	See Publication 334, Tax Guide for Small Business.		
Foreign governments and international organizations.	Exempt	Exempt	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Foreign service by U.S. citizens: 1. As U.S. government employees. 2. For foreign affiliates of American employers and other private employers.	Withhold Exempt if at time of payment (1) it is reasonable to believe employee is entitled to exclusion from income under section 911 or (2) the employer is required by law of the foreign country to withhold income tax on such payment.	Same as within U.S. Exempt unless (1) an American employer by agreement covers U.S. citizens employed by its foreign affiliates or (2) U.S. citizen works for American employer.	Exempt Exempt unless (1) on American vessel or aircraft and work is performed under contract made in U.S. or worker is employed on vessel when it touches U.S. port or (2) U.S. citizen works for American employer (except in a contiguous country with which the U.S. has an agreement for unemployment compensation) or in the U.S. Virgin Islands.
Fringe benefits	Taxable on excess of fair market value of the benefit over the sum of an amount paid for it by the employee and any amount excludable by law. However, special valuation rules may apply. Benefits provided under cafeteria plans may qualify for exclusion from wages for social security, Medicare, and FUTA taxes. See Publication 15-B for details.		
Government employment: State/local governments and political subdivisions, employees of:			
1. Salaries and wages (includes payments to most elected and appointed officials.) See Chapter 3 of Publication 963, Federal-State Reference Guide.	Withhold	Generally, taxable for (1) services performed by employees who are either (a) covered under a section 218 agreement or (b) not covered under a section 218 agreement and not a member of a public retirement system (mandatory social security and Medicare coverage), and (2) (for Medicare tax only) for services performed by employees hired or rehired after 3/31/86 who are not covered under a section 218 agreement or the mandatory social security provisions, unless specifically excluded by law. See Publication 963.	Exempt
2. Election workers. Election individuals are workers who are employed to perform services for state or local governments at election booths in connection with national, state, or local elections. **Note.** File Form W-2 for payments of $600 or more even if no social security, or Medicare taxes were withheld.	Exempt	Taxable if paid $1,500 or more in 2010 (lesser amount if specified by a section 218 social security agreement). See Revenue Ruling 2000-6.	Exempt
3. Emergency workers. Emergency workers who were hired on a temporary basis in response to a specific unforeseen emergency and are not intended to become permanent employees.	Withhold	Exempt if serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.	Exempt
U.S. federal government employees	Withhold	Taxable for Medicare. Taxable for social security unless hired before 1984. See section 3121(b)(5).	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Homeworkers (industrial, cottage industry): 1. Common law employees. 2. Statutory employees. See section 2 for details.	Withhold Exempt	Taxable Taxable if paid $100 or more in cash in a year.	Taxable Exempt
Hospital employees: 1. Interns 2. Patients	Withhold Withhold	Taxable Taxable (Exempt for state or local government hospitals.)	Exempt Exempt
Household employees: 1. Domestic service in private homes. Farmers, see Publication 51 (Circular A).	Exempt (withhold if both employer and employee agree).	Taxable if paid $1,700 or more in cash in 2010. Exempt if performed by an individual under age 18 during any portion of the calendar year and is not the principal occupation of the employee.	Taxable if employer paid total cash wages of $1,000 or more in any quarter in the current or preceding calendar year.
2. Domestic service in college clubs, fraternities, and sororities.	Exempt (withhold if both employer and employee agree).	Exempt if paid to regular student; also exempt if employee is paid less than $100 in a year by an income-tax-exempt employer.	Taxable if employer paid total cash wages of $1,000 or more in any quarter in the current or preceding calendar year.
Insurance for employees: 1. Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents.	Exempt (except 2% shareholder-employees of S corporations).	Exempt	Exempt
2. Group-term life insurance costs. See Publication 15-B for details	Exempt	Exempt, except for the cost of group-term life insurance includible in the employee's gross income. Special rules apply for former employees.	Exempt
Insurance agents or solicitors: 1. Full-time life insurance salesperson.	Withhold only if employee under common law. See section 2.	Taxable	Taxable if (1) employee under common law and (2) not paid solely by commissions.
2. Other salesperson of life, casualty, etc., insurance.	Withhold only if employee under common law.	Taxable only if employee under common law.	Taxable if (1) employee under common law and (2) not paid solely by commissions.
Interest on loans with below-market interest rates (foregone interest and deemed original issue discount).	See Publication 15-A.		
Leave-sharing plans: Amounts paid to an employee under a leave-sharing plan.	Withhold	Taxable	Taxable
Newspaper carriers and vendors: Newspaper carriers under age 18; newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers. See Publication 15-A for information on statutory nonemployee status.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Noncash payments:			
1. For household work, agricultural labor, and service not in the course of the employer's trade or business.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt
2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Optional with employer, except to the extent employee's supplemental wages during the year exceed $1,000,000.	Taxable	Taxable
Nonprofit organizations.	See Publication 15-A.		
Officers or shareholders of an S Corporation. Distributions and other payments by an S corporation to a corporate officer or shareholder must be treated as wages to the extent the amounts are reasonable compensation for services to the corporation by an employee. See the Instructions for Form 1120S.	Withhold	Taxable	Taxable
Partners: Payments to general or limited partners of a partnership. See Publication 541, Partnerships, for partner reporting rules.	Exempt	Exempt	Exempt
Railroads: Payments subject to the Railroad Retirement Act. See Publication 915, Social Security and Equivalent Railroad Retirement Benefits, for more details.	Withhold	Exempt	Exempt
Religious exemptions.	See Publication 15-A and Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.		
Retirement and pension plans:			
1. Employer contributions to a qualified plan.	Exempt	Exempt	Exempt
2. Elective employee contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (for example, 401(k)).	Generally exempt, but see section 402(g) for limitation.	Taxable	Taxable
3. Employer contributions to individual retirement accounts under simplified employee pension plan (SEP).	Generally exempt, but seesection 402(g) for salary reduction SEP limitation.	Exempt, except for amounts contributed under a salary reduction SEP agreement.	
4. Employer contributions to section 403(b) annuities.	Generally exempt, but see section 402(g) for limitation.	Taxable if paid through a salary reduction agreement (written or otherwise).	
5. Employee salary reduction contributions to a SIMPLE retirement account.	Exempt	Taxable	Taxable
6. Distributions from qualified retirement and pension plans and section 403(b) annuities.	Withhold, but recipient may elect exemption on Form W-4P in certain cases; mandatory 20% withholding applies to an eligible rollover distribution that is not a direct rollover; exempt for direct rollover. See Publication 15-A.	Exempt	Exempt
See Publication 15-A for information on pensions, annuities, and employer contributions to nonqualified deferred compensation arrangements.			
Salespersons:			
1. Common law employees.	Withhold	Taxable	Taxable
2. Statutory employees.	Exempt	Taxable	Taxable, except for full-time life insurance sales agents.
3. Statutory nonemployees (qualified real estate agents, direct sellers, and certain companion sitters). See Publication 15-A for details.	Exempt	Exempt	Exempt
Scholarships and fellowship grants: (includible in income under section 117(c)).	Withhold	Taxability depends on the nature of the employment and the status of the organization. See *Students, scholars, trainees, teachers, etc.* on next page.	
Severance or dismissal pay.	Withhold	Taxable	Taxable

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Service not in the course of the employer's trade or business, other than on a farm operated for profit or for household employment in private homes.	Withhold only if employee earns $50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.	Taxable if employee receives $100 or more in cash in a calendar year.	Taxable only if employee earns $50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
Sick pay. See Publication 15-A for more information.	Withhold	Exempt after end of 6 calendar months after the calendar month employee last worked for employer.	
Students, scholars, trainees, teachers, etc.:			
1. Student enrolled and regularly attending classes, performing services for:			
a. Private school, college, or university.	Withhold	Exempt	Exempt
b. Auxiliary nonprofit organization operated for and controlled by school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
c. Public school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
2. Full-time student performing service for academic credit, combining instruction with work experience as an integral part of the program.	Withhold	Taxable	Exempt unless program was established for or on behalf of an employer or group of employers.
3. Student nurse performing part-time services for nominal earnings at hospital as incidental part of training.	Withhold	Exempt	Exempt
4. Student employed by organized camps.	Withhold	Taxable	Exempt
5. Student, scholar, trainee, teacher, etc., as nonimmigrant alien under section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act (that is, aliens holding F-1, J-1, M-1, or Q-1 visas).	Withhold unless excepted by regulations.	Exempt if service is performed for purpose specified in section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien. See the special residency tests for exempt individuals in chapter 1 of Publication 519.	
Supplemental unemployment compensation plan benefits.	Withhold	Exempt under certain conditions. See Publication 15-A.	
Tips:			
1. If $20 or more in a month.	Withhold	Taxable	Taxable for all tips reported in writing to employer.
2. If less than $20 in a month. See section 6 for more information.	Exempt	Exempt	Exempt
Worker's compensation.	Exempt	Exempt	Exempt

16. How To Use the Income Tax Withholding and Advance Earned Income Credit (EIC) Payment Tables

Income Tax Withholding

There are several ways to figure income tax withholding. The following methods of withholding are based on the information you get from your employees on Form W-4. See section 9 for more information on Form W-4.

TIP *Adjustments are not required when there will be more than the usual number of pay periods, for example, 27 biweekly pay dates instead of 26.*

Wage Bracket Method

Under the wage bracket method, find the proper table (on pages 41-60) for your payroll period and the employee's marital status as shown on his or her Form W-4. Then, based on the number of withholding allowances claimed on the Form W-4 and the amount of wages, find the amount of federal tax to withhold. If your employee is claiming more than 10 withholding allowances, see below.

If you cannot use the wage bracket tables because wages exceed the amount shown in the last bracket of the table, use the percentage method of withholding described below. Be sure to reduce wages by the amount of total withholding allowances in Table 5 on this page before using the percentage method tables (pages 39-40).

Adjusting wage bracket withholding for employees claiming more than 10 withholding allowances. The wage bracket tables can be used if an employee claims up to 10 allowances. More than 10 allowances may be claimed because of the special withholding allowance, additional allowances for deductions and credits, and the system itself.

Adapt the tables to more than 10 allowances as follows:

1. Multiply the number of withholding allowances over 10 by the allowance value for the payroll period. The allowance values are in *Table 5, Percentage Method—2010 Amount for One Withholding Allowance*, later.
2. Subtract the result from the employee's wages.
3. On this amount, find and withhold the tax in the column for 10 allowances.

This is a voluntary method. If you use the wage bracket tables, you may continue to withhold the amount in the "10" column when your employee has more than 10 allowances, using the method above. You can also use any other method described below.

Percentage Method

If you do not want to use the wage bracket tables on pages 41-60 to figure how much income tax to withhold, you can use a percentage computation based on Table 5 below and the appropriate rate table. This method works for any number of withholding allowances the employee claims and any amount of wages.

Use these steps to figure the income tax to withhold under the percentage method.

1. Multiply one withholding allowance for your payroll period (see Table 5 below) by the number of allowances the employee claims.
2. Subtract that amount from the employee's wages.
3. Determine the amount to withhold from the appropriate table on page 39 or 40.

Table 5. **Percentage Method—2010 Amount for One Withholding Allowance (unchanged from 2009)**

Payroll Period	One Withholding Allowance
Weekly	$ 70.19
Biweekly	140.38
Semimonthly	152.08
Monthly	304.17
Quarterly	912.50
Semiannually	1,825.00
Annually	3,650.00
Daily or miscellaneous (each day of the payroll period)	14.04

Example. An unmarried employee is paid $600 weekly. This employee has in effect a Form W-4 claiming two withholding allowances. Using the percentage method, figure the income tax to withhold as follows:

1.	Total wage payment		$600.00
2.	One allowance	$70.19	
3.	Allowances claimed on Form W-4	2	
4.	Multiply line 2 by line 3		$140.38
5	Amount subject to withholding (subtract line 4 from line 1)		$459.62
6.	Tax to be withheld on $459.62 from Table 1—single person, page 39		$ 47.34

To figure the income tax to withhold, you may reduce the last digit of the wages to zero, or figure the wages to the nearest dollar.

Annual income tax withholding. Figure the income tax to withhold on annual wages under the *Percentage Method* for an annual payroll period. Then prorate the tax back to the payroll period.

Example. A married person claims four withholding allowances. She is paid $1,000 a week. Multiply the weekly wages by 52 weeks to figure the annual wage of $52,000. Subtract $14,600 (the value of four withholding allowances for 2010) for a balance of $37,400. Using the table for the annual payroll period on page 40, $3,010 is withheld. Divide the annual tax by 52. The weekly income tax to withhold is $57.88.

Alternative Methods of Income Tax Withholding

Rather than the *Wage Bracket Method* or *Percentage Method* described above, you can use an alternative method to withhold income tax. Publication 15-A describes these alternative methods and contains:

- Formula tables for percentage method withholding (for automated payroll systems),
- Wage bracket percentage method tables (for automated payroll systems), and
- Combined income, social security, and Medicare tax withholding tables.

Some of the alternative methods explained in Publication 15-A are annualized wages, average estimated wages, cumulative wages, and part-year employment.

Advance Payment Methods for the Earned Income Credit (EIC)

To figure the advance EIC payment, you may use either the *Wage Bracket Method* or the *Percentage Method* as explained below. You may use other methods for figuring advance EIC payments if the amount of the payment is about the same as it would be using tables in this booklet. See the tolerances allowed in the chart in section 9 of Publication 15-A. See also section 10 in this booklet for an explanation of the advance payment of the EIC.

The number of withholding allowances an employee claims on Form W-4 is not used in figuring the advance EIC payment. Nor does it matter the employee has claimed exemption from income tax withholding on Form W-4.

Wage Bracket Method

If you use the wage bracket tables on pages 63-69, figure the advance EIC payment as follows.

Find the employee's gross wages before any deductions using the appropriate table. There are different tables for (a) single or head of household, (b) married without spouse filing certificate, and (c) married with both spouses filing certificates. Determine the amount of the advance EIC payment shown in the appropriate table for the amount of wages paid.

Percentage Method

If you do not want to use the wage bracket tables to figure how much to include in an employee's wages for the advance EIC payment, you can use the percentage method based on the appropriate rate table on pages 61 and 62.

Find the employee's gross wages before any deductions in the appropriate table on pages 61 and 62. There are different tables for (a) single or head of household, (b) married without spouse filing certificate, and (c) married with both spouses filing certificates. Find the advance EIC payment shown in the appropriate table for the amount of wages paid.

Additional Withholding for Pensions

The tables on page 71 explain how to calculate additional withholding amounts for pension payments. The withholding amounts may be added to the amount of withholding determined from the percentage method, the wage bracket method, or any other allowable method. The percentage method, the wage bracket method, or other allowable method when combined with this procedure constitutes an allowable alternative withholding method for pensions and annuities.

This procedure is optional for those making pension payments subject to withholding under section 3405 of the Internal Revenue Code. The procedure is an approximate offset for the withholding reduction from the withholding tables on pages 41-60, which reflect the Making Work Pay credit. Eligibility for the credit requires earned income, which does not include pension payments.

Pension payors are not required to use this procedure but may instead continue to use **only** the withholding tables to determine the amount of withholding.

The procedure is shown on page 71 for Monthly, Semimonthly, Biweekly, and Weekly pension payments.

If pension payors decide to use this optional procedure, they should begin using it as of January 1, 2010.

Note. If a pension payee submitted a request for additional withholding on line 3 of Form W-4P, Withholding Certificate for Pension or Annuity Payments, pension payors using this optional procedure may want to contact the payee to determine if the additional withholding requested on line 3 is still desired or whether the payee wants to submit a new Form W-4P.

Whole-Dollar Withholding and Paying Advance EIC (Rounding)

The income tax withholding amounts in the Wage Bracket Tables (pages 41-60) have been rounded to whole-dollar amounts.

When employers use the Percentage Method (pages 39-40) or an alternative method of income tax withholding, the tax for the pay period may be rounded to the nearest dollar.

The Wage Bracket Tables for advance EIC payments (pages 63-69) have also been rounded to whole-dollar amounts. If you use the Tables for Percentage Method of Advance EIC Payments (pages 61-62), the payments may be rounded to the nearest dollar.

Tables for Percentage Method of Withholding

(For Wages Paid in 2010)

TABLE 1—WEEKLY Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $116 . . . . . $0

Over—	But not over—		of excess over—
$116	—$200	. . .10%	—$116
$200	—$693	. . .$8.40 plus 15%	—$200
$693	—$1,302	. . .$82.35 plus 25%	—$693
$1,302	—$1,624	. . .$234.60 plus 27%	—$1,302
$1,624	—$1,687	. . .$321.54 plus 30%	—$1,624
$1,687	—$3,344	. . .$340.44 plus 28%	—$1,687
$3,344	—$7,225	. . .$804.40 plus 33%	—$3,344
$7,225		.$2,085.13 plus 35%	—$7,225

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $264 . . . . . $0

Over—	But not over—		of excess over—
$264	—$471	. . .10%	—$264
$471	—$1,457	. . .$20.70 plus 15%	—$471
$1,457	—$1,809	. . .$168.60 plus 25%	—$1,457
$1,809	—$2,386	. . .$256.60 plus 27%	—$1,809
$2,386	—$2,789	. . .$412.39 plus 25%	—$2,386
$2,789	—$4,173	. . .$513.14 plus 28%	—$2,789
$4,173	—$7,335	. . .$900.66 plus 33%	—$4,173
$7,335		.$1,944.12 plus 35%	—$7,335

TABLE 2—BIWEEKLY Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $233 . . . . . $0

Over—	But not over—		of excess over—
$233	—$401	. . .10%	—$233
$401	—$1,387	. . .$16.80 plus 15%	—$401
$1,387	—$2,604	. . .$164.70 plus 25%	—$1,387
$2,604	—$3,248	. . .$468.95 plus 27%	—$2,604
$3,248	—$3,373	. . .$642.83 plus 30%	—$3,248
$3,373	—$6,688	. . .$680.33 plus 28%	—$3,373
$6,688	—$14,450	. . .$1,608.53 plus 33%	—$6,688
$14,450		.$4,169.99 plus 35%	—$14,450

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $529 . . . . . $0

Over—	But not over—		of excess over—
$529	—$942	. . .10%	—$529
$942	—$2,913	. . .$41.30 plus 15%	—$942
$2,913	—$3,617	. . .$336.95 plus 25%	—$2,913
$3,617	—$4,771	. . .$512.95 plus 27%	—$3,617
$4,771	—$5,579	. . .$824.53 plus 25%	—$4,771
$5,579	—$8,346	. . .$1,026.53 plus 28%	—$5,579
$8,346	—$14,669	. . .$1,801.29 plus 33%	—$8,346
$14,669		.$3,887.88 plus 35%	—$14,669

TABLE 3—SEMIMONTHLY Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $252 . . . . . $0

Over—	But not over—		of excess over—
$252	—$434	. . .10%	—$252
$434	—$1,502	. . .$18.20 plus 15%	—$434
$1,502	—$2,821	. . .$178.40 plus 25%	—$1,502
$2,821	—$3,519	. . .$508.15 plus 27%	—$2,821
$3,519	—$3,654	. . .$696.61 plus 30%	—$3,519
$3,654	—$7,246	. . .$737.11 plus 28%	—$3,654
$7,246	—$15,654	. . .$1,742.87 plus 33%	—$7,246
$15,654		. . .$4,517.51 plus 35%	—$15,654

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $573 . . . . . $0

Over—	But not over—		of excess over—
$573	—$1,021	. . .10%	—$573
$1,021	—$3,156	. . .$44.80 plus 15%	—$1,021
$3,156	—$3,919	. . .$365.05 plus 25%	—$3,156
$3,919	—$5,169	. . .$555.80 plus 27%	—$3,919
$5,169	—$6,044	. . .$893.30 plus 25%	—$5,169
$6,044	—$9,042	. . .$1,112.05 plus 28%	—$6,044
$9,042	—$15,892	. . .$1,951.49 plus 33%	—$9,042
$15,892		. . .$4,211.99 plus 35%	—$15,892

TABLE 4—MONTHLY Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $504 . . . . . $0

Over—	But not over—		of excess over—
$504	—$869	. . .10%	—$504
$869	—$3,004	. . .$36.50 plus 15%	—$869
$3,004	—$5,642	. . .$356.75 plus 25%	—$3,004
$5,642	—$7,038	. . .$1,016.25 plus 27%	—$5,642
$7,038	—$7,308	. . .$1,393.17 plus 30%	—$7,038
$7,308	—$14,492	. . .$1,474.17 plus 28%	—$7,308
$14,492	—$31,308	. . .$3,485.69 plus 33%	—$14,492
$31,308		.$9,034.97 plus 35%	—$31,308

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: | The amount of income tax to withhold is:

Not over $1,146 . . . . . $0

Over—	But not over—		of excess over—
$1,146	—$2,042	. . .10%	—$1,146
$2,042	—$6,313	. . .$89.60 plus 15%	—$2,042
$6,313	—$7,838	. . .$730.25 plus 25%	—$6,313
$7,838	—$10,338	. . .$1,111.50 plus 27%	—$7,838
$10,338	—$12,088	. . .$1,786.50 plus 25%	—$10,338
$12,088	—$18,083	. . .$2,224.00 plus 28%	—$12,088
$18,083	—$31,783	. . .$3,902.60 plus 33%	—$18,083
$31,783		.$8,423.60 plus 35%	—$31,783

Tables for Percentage Method of Withholding (continued)

(For Wages Paid in 2010)

TABLE 5—QUARTERLY Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $1,513		$0	
$1,513	—$2,606	10%	—$1,513
$2,606	—$9,013	$109.30 plus 15%	—$2,606
$9,013	—$16,925	$1,070.35 plus 25%	—$9,013
$16,925	—$21,113	$3,048.35 plus 27%	—$16,925
$21,113	—$21,925	$4,179.11 plus 30%	—$21,113
$21,925	—$43,475	$4,422.71 plus 28%	—$21,925
$43,475	—$93,925	$10,456.71 plus 33%	—$43,475
$93,925		$27,105.21 plus 35%	—$93,925

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $3,438		$0	
$3,438	—$6,125	10%	—$3,438
$6,125	—$18,938	$268.70 plus 15%	—$6,125
$18,938	—$23,513	$2,190.65 plus 25%	—$18,938
$23,513	—$31,013	$3,334.40 plus 27%	—$23,513
$31,013	—$36,263	$5,359.40 plus 25%	—$31,013
$36,263	—$54,250	$6,671.90 plus 28%	—$36,263
$54,250	—$95,350	$11,708.26 plus 33%	—$54,250
$95,350		$25,271.26 plus 35%	—$95,350

TABLE 6—SEMIANNUAL Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $3,025		$0	
$3,025	—$5,213	10%	—$3,025
$5,213	—$18,025	$218.80 plus 15%	—$5,213
$18,025	—$33,850	$2,140.60 plus 25%	—$18,025
$33,850	—$42,225	$6,096.85 plus 27%	—$33,850
$42,225	—$43,850	$8,358.10 plus 30%	—$42,225
$43,850	—$86,950	$8,845.60 plus 28%	—$43,850
$86,950	—$187,850	$20,913.60 plus 33%	—$86,950
$187,850		$54,210.60 plus 35%	—$187,850

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $6,875		$0	
$6,875	—$12,250	10%	—$6,875
$12,250	—$37,875	$537.50 plus 15%	—$12,250
$37,875	—$47,025	$4,381.25 plus 25%	—$37,875
$47,025	—$62,025	$6,668.75 plus 27%	—$47,025
$62,025	—$72,525	$10,718.75 plus 25%	—$62,025
$72,525	—$108,500	$13,343.75 plus 28%	—$72,525
$108,500	—$190,700	$23,416.75 plus 33%	—$108,500
$190,700		$50,542.75 plus 35%	—$190,700

TABLE 7—ANNUAL Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $6,050		$0	
$6,050	—$10,425	10%	—$6,050
$10,425	—$36,050	$437.50 plus 15%	—$10,425
$36,050	—$67,700	$4,281.25 plus 25%	—$36,050
$67,700	—$84,450	$12,193.75 plus 27%	—$67,700
$84,450	—$87,700	$16,716.25 plus 30%	—$84,450
$87,700	—$173,900	$17,691.25 plus 28%	—$87,700
$173,900	—$375,700	$41,827.25 plus 33%	—$173,900
$375,700		$108,421.25 plus 35%	—$375,700

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
Not over $13,750		$0	
$13,750	—$24,500	10%	—$13,750
$24,500	—$75,750	$1,075.00 plus 15%	—$24,500
$75,750	—$94,050	$8,762.50 plus 25%	—$75,750
$94,050	—$124,050	$13,337.50 plus 27%	—$94,050
$124,050	—$145,050	$21,437.50 plus 25%	—$124,050
$145,050	—$217,000	$26,687.50 plus 28%	—$145,050
$217,000	—$381,400	$46,833.50 plus 33%	—$217,000
$381,400		$101,085.50 plus 35%	—$381,400

TABLE 8—DAILY or MISCELLANEOUS Payroll Period

(a) SINGLE person (including head of household)—

If the amount of wages (after subtracting withholding allowances) divided by the number of days in the payroll period is: Over—	But not over—	The amount of income tax to withhold per day is:	of excess over—
Not over $23.30		$0	
$23.30	—$40.10	10%	—$23.30
$40.10	—$138.70	$1.68 plus 15%	—$40.10
$138.70	—$260.40	$16.47 plus 25%	—$138.70
$260.40	—$324.80	$46.90 plus 27%	—$260.40
$324.80	—$337.30	$64.29 plus 30%	—$324.80
$337.30	—$668.80	$68.04 plus 28%	—$337.30
$668.80	—$1,445.00	$160.86 plus 33%	—$668.80
$1,445.00		$417.01 plus 35%	—$1,445.00

(b) MARRIED person—

If the amount of wages (after subtracting withholding allowances) divided by the number of days in the payroll period is: Over—	But not over—	The amount of income tax to withhold per day is:	of excess over—
Not over $52.90		$0	
$52.90	—$94.20	10%	—$52.90
$94.20	—$291.30	$4.13 plus 15%	—$94.20
$291.30	—$361.70	$33.70 plus 25%	—$291.30
$361.70	—$477.10	$51.30 plus 27%	—$361.70
$477.10	—$557.90	$82.46 plus 25%	—$477.10
$557.90	—$834.60	$102.66 plus 28%	—$557.90
$834.60	—$1,466.90	$180.14 plus 33%	—$834.60
$1,466.90		$388.80 plus 35%	—$1,466.90

SINGLE Persons—WEEKLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$120	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
120	125	1	0	0	0	0	0	0	0	0	0	0
125	130	1	0	0	0	0	0	0	0	0	0	0
130	135	2	0	0	0	0	0	0	0	0	0	0
135	140	2	0	0	0	0	0	0	0	0	0	0
140	145	3	0	0	0	0	0	0	0	0	0	0
145	150	3	0	0	0	0	0	0	0	0	0	0
150	155	4	0	0	0	0	0	0	0	0	0	0
155	160	4	0	0	0	0	0	0	0	0	0	0
160	165	5	0	0	0	0	0	0	0	0	0	0
165	170	5	0	0	0	0	0	0	0	0	0	0
170	175	6	0	0	0	0	0	0	0	0	0	0
175	180	6	0	0	0	0	0	0	0	0	0	0
180	185	7	0	0	0	0	0	0	0	0	0	0
185	190	7	0	0	0	0	0	0	0	0	0	0
190	195	8	1	0	0	0	0	0	0	0	0	0
195	200	8	1	0	0	0	0	0	0	0	0	0
200	210	9	2	0	0	0	0	0	0	0	0	0
210	220	11	3	0	0	0	0	0	0	0	0	0
220	230	12	4	0	0	0	0	0	0	0	0	0
230	240	14	5	0	0	0	0	0	0	0	0	0
240	250	15	6	0	0	0	0	0	0	0	0	0
250	260	17	7	0	0	0	0	0	0	0	0	0
260	270	18	8	1	0	0	0	0	0	0	0	0
270	280	20	9	2	0	0	0	0	0	0	0	0
280	290	21	11	3	0	0	0	0	0	0	0	0
290	300	23	12	4	0	0	0	0	0	0	0	0
300	310	24	14	5	0	0	0	0	0	0	0	0
310	320	26	15	6	0	0	0	0	0	0	0	0
320	330	27	17	7	0	0	0	0	0	0	0	0
330	340	29	18	8	1	0	0	0	0	0	0	0
340	350	30	20	9	2	0	0	0	0	0	0	0
350	360	32	21	11	3	0	0	0	0	0	0	0
360	370	33	23	12	4	0	0	0	0	0	0	0
370	380	35	24	14	5	0	0	0	0	0	0	0
380	390	36	26	15	6	0	0	0	0	0	0	0
390	400	38	27	17	7	0	0	0	0	0	0	0
400	410	39	29	18	8	1	0	0	0	0	0	0
410	420	41	30	20	9	2	0	0	0	0	0	0
420	430	42	32	21	11	3	0	0	0	0	0	0
430	440	44	33	23	12	4	0	0	0	0	0	0
440	450	45	35	24	14	5	0	0	0	0	0	0
450	460	47	36	26	15	6	0	0	0	0	0	0
460	470	48	38	27	17	7	0	0	0	0	0	0
470	480	50	39	29	18	8	1	0	0	0	0	0
480	490	51	41	30	20	9	2	0	0	0	0	0
490	500	53	42	32	21	10	3	0	0	0	0	0
500	510	54	44	33	23	12	4	0	0	0	0	0
510	520	56	45	35	24	13	5	0	0	0	0	0
520	530	57	47	36	26	15	6	0	0	0	0	0
530	540	59	48	38	27	16	7	0	0	0	0	0
540	550	60	50	39	29	18	8	1	0	0	0	0
550	560	62	51	41	30	19	9	2	0	0	0	0
560	570	63	53	42	32	21	10	3	0	0	0	0
570	580	65	54	44	33	22	12	4	0	0	0	0
580	590	66	56	45	35	24	13	5	0	0	0	0
590	600	68	57	47	36	25	15	6	0	0	0	0
600	610	69	59	48	38	27	16	7	0	0	0	0
610	620	71	60	50	39	28	18	8	1	0	0	0
620	630	72	62	51	41	30	19	9	2	0	0	0
630	640	74	63	53	42	31	21	10	3	0	0	0
640	650	75	65	54	44	33	22	12	4	0	0	0
650	660	77	66	56	45	34	24	13	5	0	0	0
660	670	78	68	57	47	36	25	15	6	0	0	0
670	680	80	69	59	48	37	27	16	7	0	0	0
680	690	81	71	60	50	39	28	18	8	1	0	0
690	700	83	72	62	51	40	30	19	9	2	0	0
700	710	85	74	63	53	42	31	21	10	3	0	0
710	720	88	75	65	54	43	33	22	12	4	0	0
720	730	90	77	66	56	45	34	24	13	5	0	0
730	740	93	78	68	57	46	36	25	15	6	0	0
740	750	95	80	69	59	48	37	27	16	7	0	0
750	760	98	81	71	60	49	39	28	18	8	1	0
760	770	100	83	72	62	51	40	30	19	9	2	0
770	780	103	85	74	63	52	42	31	21	10	3	0
780	790	105	88	75	65	54	43	33	22	12	4	0
790	800	108	90	77	66	55	45	34	24	13	5	0
800	810	110	93	78	68	57	46	36	25	15	6	0
810	820	113	95	80	69	58	48	37	27	16	7	0
820	830	115	98	81	71	60	49	39	28	18	8	1
830	840	118	100	83	72	61	51	40	30	19	9	2
840	850	120	103	85	74	63	52	42	31	21	10	3
850	860	123	105	88	75	64	54	43	33	22	12	4
860	870	125	108	90	77	66	55	45	34	24	13	5
870	880	128	110	93	78	67	57	46	36	25	15	6

SINGLE Persons—WEEKLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$880	$890	$130	$113	$95	$80	$69	$58	$48	$37	$27	$16	$7
890	900	133	115	98	81	70	60	49	39	28	18	8
900	910	135	118	100	83	72	61	51	40	30	19	9
910	920	138	120	103	85	73	63	52	42	31	21	10
920	930	140	123	105	88	75	64	54	43	33	22	12
930	940	143	125	108	90	76	66	55	45	34	24	13
940	950	145	128	110	93	78	67	57	46	36	25	15
950	960	148	130	113	95	79	69	58	48	37	27	16
960	970	150	133	115	98	81	70	60	49	39	28	18
970	980	153	135	118	100	83	72	61	51	40	30	19
980	990	155	138	120	103	85	73	63	52	42	31	21
990	1000	158	140	123	105	88	75	64	54	43	33	22
1000	1010	160	143	125	108	90	76	66	55	45	34	24
1010	1020	163	145	128	110	93	78	67	57	46	36	25
1020	1030	165	148	130	113	95	79	69	58	48	37	27
1030	1040	168	150	133	115	98	81	70	60	49	39	28
1040	1050	170	153	135	118	100	83	72	61	51	40	30
1050	1060	173	155	138	120	103	85	73	63	52	42	31
1060	1070	175	158	140	123	105	88	75	64	54	43	33
1070	1080	178	160	143	125	108	90	76	66	55	45	34
1080	1090	180	163	145	128	110	93	78	67	57	46	36
1090	1100	183	165	148	130	113	95	79	69	58	48	37
1100	1110	185	168	150	133	115	98	81	70	60	49	39
1110	1120	188	170	153	135	118	100	82	72	61	51	40
1120	1130	190	173	155	138	120	103	85	73	63	52	42
1130	1140	193	175	158	140	123	105	87	75	64	54	43
1140	1150	195	178	160	143	125	108	90	76	66	55	45
1150	1160	198	180	163	145	128	110	92	78	67	57	46
1160	1170	200	183	165	148	130	113	95	79	69	58	48
1170	1180	203	185	168	150	133	115	97	81	70	60	49
1180	1190	205	188	170	153	135	118	100	82	72	61	51
1190	1200	208	190	173	155	138	120	102	85	73	63	52
1200	1210	210	193	175	158	140	123	105	87	75	64	54
1210	1220	213	195	178	160	143	125	107	90	76	66	55
1220	1230	215	198	180	163	145	128	110	92	78	67	57
1230	1240	218	200	183	165	148	130	112	95	79	69	58
1240	1250	220	203	185	168	150	133	115	97	81	70	60
$1250 and over		Use Table 1(a) for a **SINGLE person** on page 39. Also see the instructions on page 37.										

MARRIED Persons—WEEKLY Payroll Period
(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$270	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
270	280	1	0	0	0	0	0	0	0	0	0	0
280	290	2	0	0	0	0	0	0	0	0	0	0
290	300	3	0	0	0	0	0	0	0	0	0	0
300	310	4	0	0	0	0	0	0	0	0	0	0
310	320	5	0	0	0	0	0	0	0	0	0	0
320	330	6	0	0	0	0	0	0	0	0	0	0
330	340	7	0	0	0	0	0	0	0	0	0	0
340	350	8	1	0	0	0	0	0	0	0	0	0
350	360	9	2	0	0	0	0	0	0	0	0	0
360	370	10	3	0	0	0	0	0	0	0	0	0
370	380	11	4	0	0	0	0	0	0	0	0	0
380	390	12	5	0	0	0	0	0	0	0	0	0
390	400	13	6	0	0	0	0	0	0	0	0	0
400	410	14	7	0	0	0	0	0	0	0	0	0
410	420	15	8	1	0	0	0	0	0	0	0	0
420	430	16	9	2	0	0	0	0	0	0	0	0
430	440	17	10	3	0	0	0	0	0	0	0	0
440	450	18	11	4	0	0	0	0	0	0	0	0
450	460	19	12	5	0	0	0	0	0	0	0	0
460	470	20	13	6	0	0	0	0	0	0	0	0
470	480	21	14	7	0	0	0	0	0	0	0	0
480	490	23	15	8	1	0	0	0	0	0	0	0
490	500	24	16	9	2	0	0	0	0	0	0	0
500	510	26	17	10	3	0	0	0	0	0	0	0
510	520	27	18	11	4	0	0	0	0	0	0	0
520	530	29	19	12	5	0	0	0	0	0	0	0
530	540	30	20	13	6	0	0	0	0	0	0	0
540	550	32	21	14	7	0	0	0	0	0	0	0
550	560	33	23	15	8	1	0	0	0	0	0	0
560	570	35	24	16	9	2	0	0	0	0	0	0
570	580	36	26	17	10	3	0	0	0	0	0	0
580	590	38	27	18	11	4	0	0	0	0	0	0
590	600	39	29	19	12	5	0	0	0	0	0	0
600	610	41	30	20	13	6	0	0	0	0	0	0
610	620	42	32	21	14	7	0	0	0	0	0	0
620	630	44	33	23	15	8	1	0	0	0	0	0
630	640	45	35	24	16	9	2	0	0	0	0	0
640	650	47	36	26	17	10	3	0	0	0	0	0
650	660	48	38	27	18	11	4	0	0	0	0	0
660	670	50	39	29	19	12	5	0	0	0	0	0
670	680	51	41	30	20	13	6	0	0	0	0	0
680	690	53	42	32	21	14	7	0	0	0	0	0
690	700	54	44	33	23	15	8	1	0	0	0	0
700	710	56	45	35	24	16	9	2	0	0	0	0
710	720	57	47	36	26	17	10	3	0	0	0	0
720	730	59	48	38	27	18	11	4	0	0	0	0
730	740	60	50	39	29	19	12	5	0	0	0	0
740	750	62	51	41	30	20	13	6	0	0	0	0
750	760	63	53	42	32	21	14	7	0	0	0	0
760	770	65	54	44	33	23	15	8	1	0	0	0
770	780	66	56	45	35	24	16	9	2	0	0	0
780	790	68	57	47	38	26	17	10	3	0	0	0
790	800	69	59	48	38	27	18	11	4	0	0	0
800	810	71	60	50	39	29	19	12	5	0	0	0
810	820	72	62	51	41	30	20	13	6	0	0	0
820	830	74	63	53	42	32	21	14	7	0	0	0
830	840	75	65	54	44	33	23	15	8	1	0	0
840	850	77	66	56	45	35	24	16	9	2	0	0
850	860	78	68	57	47	36	26	17	10	3	0	0
860	870	80	69	59	48	38	27	18	11	4	0	0
870	880	81	71	60	50	39	29	19	12	5	0	0
880	890	83	72	62	51	41	30	20	13	6	0	0
890	900	84	74	63	53	42	32	21	14	7	0	0
900	910	86	75	65	54	44	33	23	15	8	1	0
910	920	87	77	66	56	45	35	24	16	9	2	0
920	930	89	78	68	57	47	36	26	17	10	3	0
930	940	90	80	69	59	48	38	27	18	11	4	0
940	950	92	81	71	60	50	39	29	19	12	5	0
950	960	93	83	72	62	51	41	30	20	13	6	0
960	970	95	84	74	63	53	42	32	21	14	7	0
970	980	96	86	75	65	54	44	33	23	15	8	1
980	990	98	87	77	66	56	45	35	24	16	9	2
990	1000	99	89	78	68	57	47	36	26	17	10	3
1000	1010	101	90	80	69	59	48	38	27	18	11	4
1010	1020	102	92	81	71	60	50	39	29	19	12	5
1020	1030	104	93	83	72	62	51	41	30	20	13	6
1030	1040	105	95	84	74	63	53	42	32	21	14	7
1040	1050	107	96	86	75	65	54	44	33	23	15	8
1050	1060	108	98	87	77	66	56	45	35	24	16	9
1060	1070	110	99	89	78	68	57	47	36	26	17	10
1070	1080	111	101	90	80	69	59	48	38	27	18	11
1080	1090	113	102	92	81	71	60	50	39	29	19	12
1090	1100	114	104	93	83	72	62	51	41	30	20	13
1100	1110	116	105	95	84	74	63	53	42	32	21	14

MARRIED Persons—**WEEKLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$1110	$1120	$117	$107	$96	$86	$75	$65	$54	$44	$33	$22	$15
1120	1130	119	108	98	87	77	66	56	45	35	24	16
1130	1140	120	110	99	89	78	68	57	47	36	25	17
1140	1150	122	111	101	90	80	69	59	48	38	27	18
1150	1160	123	113	102	92	81	71	60	50	39	28	19
1160	1170	125	114	104	93	83	72	62	51	41	30	20
1170	1180	126	116	105	95	84	74	63	53	42	31	21
1180	1190	128	117	107	96	86	75	65	54	44	33	22
1190	1200	129	119	108	98	87	77	66	56	45	34	24
1200	1210	131	120	110	99	89	78	68	57	47	36	25
1210	1220	132	122	111	101	90	80	69	59	48	37	27
1220	1230	134	123	113	102	92	81	71	60	50	39	28
1230	1240	135	125	114	104	93	83	72	62	51	40	30
1240	1250	137	126	116	105	95	84	74	63	53	42	31
1250	1260	138	128	117	107	96	86	75	65	54	43	33
1260	1270	140	129	119	108	98	87	77	66	56	45	34
1270	1280	141	131	120	110	99	89	78	68	57	46	36
1280	1290	143	132	122	111	101	90	80	69	59	48	37
1290	1300	144	134	123	113	102	92	81	71	60	49	39
1300	1310	146	135	125	114	104	93	83	72	62	51	40
1310	1320	147	137	126	116	105	95	84	74	63	52	42
1320	1330	149	138	128	117	107	96	86	75	65	54	43
1330	1340	150	140	129	119	108	98	87	77	66	55	45
1340	1350	152	141	131	120	110	99	89	78	68	57	46
1350	1360	153	143	132	122	111	101	90	80	69	58	48
1360	1370	155	144	134	123	113	102	92	81	71	60	49
1370	1380	156	146	135	125	114	104	93	83	72	61	51
1380	1390	158	147	137	126	116	105	95	84	74	63	52
1390	1400	159	149	138	128	117	107	96	86	75	64	54
$1400 and over		Use Table 1(b) for a **MARRIED person** on page 39. Also see the instructions on page 37.										

SINGLE Persons—BIWEEKLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$240	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
240	245	1	0	0	0	0	0	0	0	0	0	0
245	250	1	0	0	0	0	0	0	0	0	0	0
250	260	2	0	0	0	0	0	0	0	0	0	0
260	270	3	0	0	0	0	0	0	0	0	0	0
270	280	4	0	0	0	0	0	0	0	0	0	0
280	290	5	0	0	0	0	0	0	0	0	0	0
290	300	6	0	0	0	0	0	0	0	0	0	0
300	310	7	0	0	0	0	0	0	0	0	0	0
310	320	8	0	0	0	0	0	0	0	0	0	0
320	330	9	0	0	0	0	0	0	0	0	0	0
330	340	10	0	0	0	0	0	0	0	0	0	0
340	350	11	0	0	0	0	0	0	0	0	0	0
350	360	12	0	0	0	0	0	0	0	0	0	0
360	370	13	0	0	0	0	0	0	0	0	0	0
370	380	14	0	0	0	0	0	0	0	0	0	0
380	390	15	1	0	0	0	0	0	0	0	0	0
390	400	16	2	0	0	0	0	0	0	0	0	0
400	410	17	3	0	0	0	0	0	0	0	0	0
410	420	19	4	0	0	0	0	0	0	0	0	0
420	430	20	5	0	0	0	0	0	0	0	0	0
430	440	22	6	0	0	0	0	0	0	0	0	0
440	450	23	7	0	0	0	0	0	0	0	0	0
450	460	25	8	0	0	0	0	0	0	0	0	0
460	470	26	9	0	0	0	0	0	0	0	0	0
470	480	28	10	0	0	0	0	0	0	0	0	0
480	490	29	11	0	0	0	0	0	0	0	0	0
490	500	31	12	0	0	0	0	0	0	0	0	0
500	520	33	14	0	0	0	0	0	0	0	0	0
520	540	36	16	2	0	0	0	0	0	0	0	0
540	560	39	18	4	0	0	0	0	0	0	0	0
560	580	42	21	6	0	0	0	0	0	0	0	0
580	600	45	24	8	0	0	0	0	0	0	0	0
600	620	48	27	10	0	0	0	0	0	0	0	0
620	640	51	30	12	0	0	0	0	0	0	0	0
640	660	54	33	14	0	0	0	0	0	0	0	0
660	680	57	36	16	2	0	0	0	0	0	0	0
680	700	60	39	18	4	0	0	0	0	0	0	0
700	720	63	42	21	6	0	0	0	0	0	0	0
720	740	66	45	24	8	0	0	0	0	0	0	0
740	760	69	48	27	10	0	0	0	0	0	0	0
760	780	72	51	30	12	0	0	0	0	0	0	0
780	800	75	54	33	14	0	0	0	0	0	0	0
800	820	78	57	36	16	2	0	0	0	0	0	0
820	840	81	60	39	18	4	0	0	0	0	0	0
840	860	84	63	42	21	6	0	0	0	0	0	0
860	880	87	66	45	24	8	0	0	0	0	0	0
880	900	90	69	48	27	10	0	0	0	0	0	0
900	920	93	72	51	30	12	0	0	0	0	0	0
920	940	96	75	54	33	14	0	0	0	0	0	0
940	960	99	78	57	36	16	2	0	0	0	0	0
960	980	102	81	60	39	18	4	0	0	0	0	0
980	1000	105	84	63	42	21	6	0	0	0	0	0
1000	1020	108	87	66	45	24	8	0	0	0	0	0
1020	1040	111	90	69	48	27	10	0	0	0	0	0
1040	1060	114	93	72	51	30	12	0	0	0	0	0
1060	1080	117	96	75	54	33	14	0	0	0	0	0
1080	1100	120	99	78	57	36	16	2	0	0	0	0
1100	1120	123	102	81	60	39	18	4	0	0	0	0
1120	1140	126	105	84	63	42	21	6	0	0	0	0
1140	1160	129	108	87	66	45	24	8	0	0	0	0
1160	1180	132	111	90	69	48	27	10	0	0	0	0
1180	1200	135	114	93	72	51	30	12	0	0	0	0
1200	1220	138	117	96	75	54	33	14	0	0	0	0
1220	1240	141	120	99	78	57	36	16	1	0	0	0
1240	1260	144	123	102	81	60	39	18	3	0	0	0
1260	1280	147	126	105	84	63	42	21	5	0	0	0
1280	1300	150	129	108	87	66	45	24	7	0	0	0
1300	1320	153	132	111	90	69	48	27	9	0	0	0
1320	1340	156	135	114	93	72	51	30	11	0	0	0
1340	1360	159	138	117	96	75	54	33	13	0	0	0
1360	1380	162	141	120	99	78	57	36	15	1	0	0
1380	1400	166	144	123	102	81	60	39	18	3	0	0
1400	1420	171	147	126	105	84	63	42	21	5	0	0
1420	1440	176	150	129	108	87	66	45	24	7	0	0
1440	1460	181	153	132	111	90	69	48	27	9	0	0
1460	1480	186	156	135	114	93	72	51	30	11	0	0
1480	1500	191	159	138	117	96	75	54	33	13	0	0
1500	1520	196	162	141	120	99	78	57	36	15	1	0
1520	1540	201	165	144	123	102	81	60	39	18	3	0
1540	1560	206	170	147	126	105	84	63	42	21	5	0
1560	1580	211	175	150	129	108	87	66	45	24	7	0
1580	1600	216	180	153	132	111	90	69	48	27	9	0
1600	1620	221	185	156	135	114	93	72	51	30	11	0
1620	1640	226	190	159	138	117	96	75	54	33	13	0

SINGLE Persons—BIWEEKLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$1640	$1660	$231	$195	$162	$141	$120	$99	$78	$57	$36	$15	$1
1660	1680	236	200	165	144	123	102	81	60	39	18	3
1680	1700	241	205	170	147	126	105	84	63	42	21	5
1700	1720	246	210	175	150	129	108	87	66	45	24	7
1720	1740	251	215	180	153	132	111	90	69	48	27	9
1740	1760	256	220	185	156	135	114	93	72	51	30	11
1760	1780	261	225	190	159	138	117	96	75	54	33	13
1780	1800	266	230	195	162	141	120	99	78	57	36	15
1800	1820	271	235	200	165	144	123	102	81	60	39	18
1820	1840	276	240	205	170	147	126	105	84	63	42	21
1840	1860	281	245	210	175	150	129	108	87	66	45	24
1860	1880	286	250	215	180	153	132	111	90	69	48	27
1880	1900	291	255	220	185	156	135	114	93	72	51	30
1900	1920	296	260	225	190	159	138	117	96	75	54	33
1920	1940	301	265	230	195	162	141	120	99	78	57	36
1940	1960	306	270	235	200	165	144	123	102	81	60	39
1960	1980	311	275	240	205	170	147	126	105	84	63	42
1980	2000	316	280	245	210	175	150	129	108	87	66	45
2000	2020	321	285	250	215	180	153	132	111	90	69	48
2020	2040	326	290	255	220	185	156	135	114	93	72	51
2040	2060	331	295	260	225	190	159	138	117	96	75	54
2060	2080	336	300	265	230	195	162	141	120	99	78	57
2080	2100	341	305	270	235	200	165	144	123	102	81	60
$2100 and over		Use Table 2(a) for a **SINGLE person** on page 39. Also see the instructions on page 37.										

MARRIED Persons—**BIWEEKLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$540	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
540	560	2	0	0	0	0	0	0	0	0	0	0
560	580	4	0	0	0	0	0	0	0	0	0	0
580	600	6	0	0	0	0	0	0	0	0	0	0
600	620	8	0	0	0	0	0	0	0	0	0	0
620	640	10	0	0	0	0	0	0	0	0	0	0
640	660	12	0	0	0	0	0	0	0	0	0	0
660	680	14	0	0	0	0	0	0	0	0	0	0
680	700	16	2	0	0	0	0	0	0	0	0	0
700	720	18	4	0	0	0	0	0	0	0	0	0
720	740	20	6	0	0	0	0	0	0	0	0	0
740	760	22	8	0	0	0	0	0	0	0	0	0
760	780	24	10	0	0	0	0	0	0	0	0	0
780	800	26	12	0	0	0	0	0	0	0	0	0
800	820	28	14	0	0	0	0	0	0	0	0	0
820	840	30	16	2	0	0	0	0	0	0	0	0
840	860	32	18	4	0	0	0	0	0	0	0	0
860	880	34	20	6	0	0	0	0	0	0	0	0
880	900	36	22	8	0	0	0	0	0	0	0	0
900	920	38	24	10	0	0	0	0	0	0	0	0
920	940	40	26	12	0	0	0	0	0	0	0	0
940	960	43	28	14	0	0	0	0	0	0	0	0
960	980	46	30	16	2	0	0	0	0	0	0	0
980	1000	49	32	18	4	0	0	0	0	0	0	0
1000	1020	52	34	20	6	0	0	0	0	0	0	0
1020	1040	55	36	22	8	0	0	0	0	0	0	0
1040	1060	58	38	24	10	0	0	0	0	0	0	0
1060	1080	61	40	26	12	0	0	0	0	0	0	0
1080	1100	64	42	28	14	0	0	0	0	0	0	0
1100	1120	67	45	30	16	2	0	0	0	0	0	0
1120	1140	70	48	32	18	4	0	0	0	0	0	0
1140	1160	73	51	34	20	6	0	0	0	0	0	0
1160	1180	76	54	36	22	8	0	0	0	0	0	0
1180	1200	79	57	38	24	10	0	0	0	0	0	0
1200	1220	82	60	40	26	12	0	0	0	0	0	0
1220	1240	85	63	42	28	14	0	0	0	0	0	0
1240	1260	88	66	45	30	16	2	0	0	0	0	0
1260	1280	91	69	48	32	18	4	0	0	0	0	0
1280	1300	94	72	51	34	20	6	0	0	0	0	0
1300	1320	97	75	54	36	22	8	0	0	0	0	0
1320	1340	100	78	57	38	24	10	0	0	0	0	0
1340	1360	103	81	60	40	26	12	0	0	0	0	0
1360	1380	106	84	63	42	28	14	0	0	0	0	0
1380	1400	109	87	66	45	30	16	2	0	0	0	0
1400	1420	112	90	69	48	32	18	4	0	0	0	0
1420	1440	115	93	72	51	34	20	8	0	0	0	0
1440	1460	118	96	75	54	36	22	8	0	0	0	0
1460	1480	121	99	78	57	38	24	10	0	0	0	0
1480	1500	124	102	81	60	40	26	12	0	0	0	0
1500	1520	127	105	84	63	42	28	14	0	0	0	0
1520	1540	130	108	87	66	45	30	16	2	0	0	0
1540	1560	133	111	90	69	48	32	18	4	0	0	0
1560	1580	136	114	93	72	51	34	20	6	0	0	0
1580	1600	139	117	96	75	54	36	22	8	0	0	0
1600	1620	142	120	99	78	57	38	24	10	0	0	0
1620	1640	145	123	102	81	60	40	26	12	0	0	0
1640	1660	148	126	105	84	63	42	28	14	0	0	0
1660	1680	151	129	108	87	66	45	30	16	2	0	0
1680	1700	154	132	111	90	69	48	32	18	4	0	0
1700	1720	157	135	114	93	72	51	34	20	6	0	0
1720	1740	160	138	117	96	75	54	36	22	8	0	0
1740	1760	163	141	120	99	78	57	38	24	10	0	0
1760	1780	166	144	123	102	81	60	40	26	12	0	0
1780	1800	169	147	126	105	84	63	42	28	14	0	0
1800	1820	172	150	129	108	87	66	45	30	16	2	0
1820	1840	175	153	132	111	90	69	48	32	18	4	0
1840	1860	178	156	135	114	93	72	51	34	20	6	0
1860	1880	181	159	138	117	96	75	54	36	22	8	0
1880	1900	184	162	141	120	99	78	57	38	24	10	0
1900	1920	187	165	144	123	102	81	60	40	26	12	0
1920	1940	190	168	147	126	105	84	63	42	28	14	0
1940	1960	193	171	150	129	108	87	66	45	30	16	2
1960	1980	196	174	153	132	111	90	69	48	32	18	4
1980	2000	199	177	156	135	114	93	72	51	34	20	6
2000	2020	202	180	159	138	117	96	75	54	36	22	8
2020	2040	205	183	162	141	120	99	78	57	38	24	10
2040	2060	208	186	165	144	123	102	81	60	40	26	12
2060	2080	211	189	168	147	126	105	84	63	42	28	14
2080	2100	214	192	171	150	129	108	87	66	45	30	16
2100	2120	217	195	174	153	132	111	90	69	48	32	18
2120	2140	220	198	177	156	135	114	93	72	51	34	20
2140	2160	223	201	180	159	138	117	96	75	54	36	22
2160	2180	226	204	183	162	141	120	99	78	57	38	24
2180	2200	229	207	186	165	144	123	102	81	60	40	26
2200	2220	232	210	189	168	147	126	105	84	63	42	28

MARRIED Persons—**BIWEEKLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$2220	$2240	$235	$213	$192	$171	$150	$129	$108	$87	$66	$45	$30
2240	2260	238	216	195	174	153	132	111	90	69	48	32
2260	2280	241	219	198	177	156	135	114	93	72	51	34
2280	2300	244	222	201	180	159	138	117	96	75	54	36
2300	2320	247	225	204	183	162	141	120	99	78	57	38
2320	2340	250	228	207	186	165	144	123	102	81	60	40
2340	2360	253	231	210	189	168	147	126	105	84	63	42
2360	2380	256	234	213	192	171	150	129	108	87	66	45
2380	2400	259	237	216	195	174	153	132	111	90	69	48
2400	2420	262	240	219	198	177	156	135	114	93	72	51
2420	2440	265	243	222	201	180	159	138	117	96	75	54
2440	2460	268	246	225	204	183	162	141	120	99	78	57
2460	2480	271	249	228	207	186	165	144	123	102	81	60
2480	2500	274	252	231	210	189	168	147	126	105	84	63
2500	2520	277	255	234	213	192	171	150	129	108	87	66
2520	2540	280	258	237	216	195	174	153	132	111	90	69
2540	2560	283	261	240	219	198	177	156	135	114	93	72
2560	2580	286	264	243	222	201	180	159	138	117	96	75
2580	2600	289	267	246	225	204	183	162	141	120	99	78
2600	2620	292	270	249	228	207	186	165	144	123	102	81
2620	2640	295	273	252	231	210	189	168	147	126	105	84
2640	2660	298	276	255	234	213	192	171	150	129	108	87
2660	2680	301	279	258	237	216	195	174	153	132	111	90
2680	2700	304	282	261	240	219	198	177	156	135	114	93
$2700 and over		Use Table 2(b) for a **MARRIED person** on page 39. Also see the instructions on page 37.										

SINGLE Persons—SEMIMONTHLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$260	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
260	270	1	0	0	0	0	0	0	0	0	0	0
270	280	2	0	0	0	0	0	0	0	0	0	0
280	290	3	0	0	0	0	0	0	0	0	0	0
290	300	4	0	0	0	0	0	0	0	0	0	0
300	310	5	0	0	0	0	0	0	0	0	0	0
310	320	6	0	0	0	0	0	0	0	0	0	0
320	330	7	0	0	0	0	0	0	0	0	0	0
330	340	8	0	0	0	0	0	0	0	0	0	0
340	350	9	0	0	0	0	0	0	0	0	0	0
350	360	10	0	0	0	0	0	0	0	0	0	0
360	370	11	0	0	0	0	0	0	0	0	0	0
370	380	12	0	0	0	0	0	0	0	0	0	0
380	390	13	0	0	0	0	0	0	0	0	0	0
390	400	14	0	0	0	0	0	0	0	0	0	0
400	410	15	0	0	0	0	0	0	0	0	0	0
410	420	16	1	0	0	0	0	0	0	0	0	0
420	430	17	2	0	0	0	0	0	0	0	0	0
430	440	18	3	0	0	0	0	0	0	0	0	0
440	450	20	4	0	0	0	0	0	0	0	0	0
450	460	21	5	0	0	0	0	0	0	0	0	0
460	470	23	6	0	0	0	0	0	0	0	0	0
470	480	24	7	0	0	0	0	0	0	0	0	0
480	490	26	8	0	0	0	0	0	0	0	0	0
490	500	27	9	0	0	0	0	0	0	0	0	0
500	520	30	11	0	0	0	0	0	0	0	0	0
520	540	33	13	0	0	0	0	0	0	0	0	0
540	560	36	15	0	0	0	0	0	0	0	0	0
560	580	39	17	1	0	0	0	0	0	0	0	0
580	600	42	19	3	0	0	0	0	0	0	0	0
600	620	45	22	5	0	0	0	0	0	0	0	0
620	640	48	25	7	0	0	0	0	0	0	0	0
640	660	51	28	9	0	0	0	0	0	0	0	0
660	680	54	31	11	0	0	0	0	0	0	0	0
680	700	57	34	13	0	0	0	0	0	0	0	0
700	720	60	37	15	0	0	0	0	0	0	0	0
720	740	63	40	17	2	0	0	0	0	0	0	0
740	760	66	43	20	4	0	0	0	0	0	0	0
760	780	69	46	23	6	0	0	0	0	0	0	0
780	800	72	49	26	8	0	0	0	0	0	0	0
800	820	75	52	29	10	0	0	0	0	0	0	0
820	840	78	55	32	12	0	0	0	0	0	0	0
840	860	81	58	35	14	0	0	0	0	0	0	0
860	880	84	61	38	16	1	0	0	0	0	0	0
880	900	87	64	41	18	3	0	0	0	0	0	0
900	920	90	67	44	21	5	0	0	0	0	0	0
920	940	93	70	47	24	7	0	0	0	0	0	0
940	960	96	73	50	27	9	0	0	0	0	0	0
960	980	99	76	53	30	11	0	0	0	0	0	0
980	1000	102	79	56	33	13	0	0	0	0	0	0
1000	1020	105	82	59	36	15	0	0	0	0	0	0
1020	1040	108	85	62	39	17	2	0	0	0	0	0
1040	1060	111	88	65	42	19	4	0	0	0	0	0
1060	1080	114	91	68	45	22	6	0	0	0	0	0
1080	1100	117	94	71	48	25	8	0	0	0	0	0
1100	1120	120	97	74	51	28	10	0	0	0	0	0
1120	1140	123	100	77	54	31	12	0	0	0	0	0
1140	1160	126	103	80	57	34	14	0	0	0	0	0
1160	1180	129	106	83	60	37	16	1	0	0	0	0
1180	1200	132	109	86	63	40	18	3	0	0	0	0
1200	1220	135	112	89	66	43	21	5	0	0	0	0
1220	1240	138	115	92	69	46	24	7	0	0	0	0
1240	1260	141	118	95	72	49	27	9	0	0	0	0
1260	1280	144	121	98	75	52	30	11	0	0	0	0
1280	1300	147	124	101	78	55	33	13	0	0	0	0
1300	1320	150	127	104	81	58	36	15	0	0	0	0
1320	1340	153	130	107	84	61	39	17	1	0	0	0
1340	1360	156	133	110	87	64	42	19	3	0	0	0
1360	1380	159	136	113	90	67	45	22	5	0	0	0
1380	1400	162	139	116	93	70	48	25	7	0	0	0
1400	1420	165	142	119	96	73	51	28	9	0	0	0
1420	1440	168	145	122	99	76	54	31	11	0	0	0
1440	1460	171	148	125	102	79	57	34	13	0	0	0
1460	1480	174	151	128	105	82	60	37	15	0	0	0
1480	1500	177	154	131	108	85	63	40	17	2	0	0
1500	1520	180	157	134	111	88	66	43	20	4	0	0
1520	1540	185	160	137	114	91	69	46	23	6	0	0
1540	1560	190	163	140	117	94	72	49	26	8	0	0
1560	1580	195	166	143	120	97	75	52	29	10	0	0
1580	1600	200	169	146	123	100	78	55	32	12	0	0
1600	1620	205	172	149	126	103	81	58	35	14	0	0
1620	1640	210	175	152	129	106	84	61	38	16	1	0
1640	1660	215	178	155	132	109	87	64	41	18	3	0
1660	1680	220	182	158	135	112	90	67	44	21	5	0
1680	1700	225	187	161	138	115	93	70	47	24	7	0

SINGLE Persons—SEMIMONTHLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$1700	$1720	$230	$192	$164	$141	$118	$96	$73	$50	$27	$9	$0
1720	1740	235	197	167	144	121	99	76	53	30	11	0
1740	1760	240	202	170	147	124	102	79	56	33	13	0
1760	1780	245	207	173	150	127	105	82	59	36	15	0
1780	1800	250	212	176	153	130	108	85	62	39	17	2
1800	1820	255	217	179	156	133	111	88	65	42	19	4
1820	1840	260	222	184	159	136	114	91	68	45	22	6
1840	1860	265	227	189	162	139	117	94	71	48	25	8
1860	1880	270	232	194	165	142	120	97	74	51	28	10
1880	1900	275	237	199	168	145	123	100	77	54	31	12
1900	1920	280	242	204	171	148	126	103	80	57	34	14
1920	1940	285	247	209	174	151	129	106	83	60	37	16
1940	1960	290	252	214	177	154	132	109	86	63	40	18
1960	1980	295	257	219	181	157	135	112	89	66	43	20
1980	2000	300	262	224	186	160	138	115	92	69	46	23
2000	2020	305	267	229	191	163	141	118	95	72	49	26
2020	2040	310	272	234	196	166	144	121	98	75	52	29
2040	2060	315	277	239	201	169	147	124	101	78	55	32
2060	2080	320	282	244	206	172	150	127	104	81	58	35
2080	2100	325	287	249	211	175	153	130	107	84	61	38
2100	2120	330	292	254	216	178	156	133	110	87	64	41
2120	2140	335	297	259	221	183	159	136	113	90	67	44
$2140 and over		Use Table 3(a) for a **SINGLE person** on page 39. Also see the instructions on page 37.										

MARRIED Persons—**SEMIMONTHLY** Payroll Period
(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$580	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
580	600	2	0	0	0	0	0	0	0	0	0	0
600	620	4	0	0	0	0	0	0	0	0	0	0
620	640	6	0	0	0	0	0	0	0	0	0	0
640	660	8	0	0	0	0	0	0	0	0	0	0
660	680	10	0	0	0	0	0	0	0	0	0	0
680	700	12	0	0	0	0	0	0	0	0	0	0
700	720	14	0	0	0	0	0	0	0	0	0	0
720	740	16	1	0	0	0	0	0	0	0	0	0
740	760	18	3	0	0	0	0	0	0	0	0	0
760	780	20	5	0	0	0	0	0	0	0	0	0
780	800	22	7	0	0	0	0	0	0	0	0	0
800	820	24	9	0	0	0	0	0	0	0	0	0
820	840	26	11	0	0	0	0	0	0	0	0	0
840	860	28	13	0	0	0	0	0	0	0	0	0
860	880	30	15	0	0	0	0	0	0	0	0	0
880	900	32	17	1	0	0	0	0	0	0	0	0
900	920	34	19	3	0	0	0	0	0	0	0	0
920	940	36	21	5	0	0	0	0	0	0	0	0
940	960	38	23	7	0	0	0	0	0	0	0	0
960	980	40	25	9	0	0	0	0	0	0	0	0
980	1000	42	27	11	0	0	0	0	0	0	0	0
1000	1020	44	29	13	0	0	0	0	0	0	0	0
1020	1040	46	31	15	0	0	0	0	0	0	0	0
1040	1060	49	33	17	2	0	0	0	0	0	0	0
1060	1080	52	35	19	4	0	0	0	0	0	0	0
1080	1100	55	37	21	6	0	0	0	0	0	0	0
1100	1120	58	39	23	8	0	0	0	0	0	0	0
1120	1140	61	41	25	10	0	0	0	0	0	0	0
1140	1160	64	43	27	12	0	0	0	0	0	0	0
1160	1180	67	45	29	14	0	0	0	0	0	0	0
1180	1200	70	47	31	16	1	0	0	0	0	0	0
1200	1220	73	50	33	18	3	0	0	0	0	0	0
1220	1240	76	53	35	20	5	0	0	0	0	0	0
1240	1260	79	56	37	22	7	0	0	0	0	0	0
1260	1280	82	59	39	24	9	0	0	0	0	0	0
1280	1300	85	62	41	26	11	0	0	0	0	0	0
1300	1320	88	65	43	28	13	0	0	0	0	0	0
1320	1340	91	68	46	30	15	0	0	0	0	0	0
1340	1360	94	71	49	32	17	2	0	0	0	0	0
1360	1380	97	74	52	34	19	4	0	0	0	0	0
1380	1400	100	77	55	36	21	6	0	0	0	0	0
1400	1420	103	80	58	38	23	8	0	0	0	0	0
1420	1440	106	83	61	40	25	10	0	0	0	0	0
1440	1460	109	86	64	42	27	12	0	0	0	0	0
1460	1480	112	89	67	44	29	14	0	0	0	0	0
1480	1500	115	92	70	47	31	16	0	0	0	0	0
1500	1520	118	95	73	50	33	18	2	0	0	0	0
1520	1540	121	98	76	53	35	20	4	0	0	0	0
1540	1560	124	101	79	56	37	22	6	0	0	0	0
1560	1580	127	104	82	59	39	24	8	0	0	0	0
1580	1600	130	107	85	62	41	26	10	0	0	0	0
1600	1620	133	110	88	65	43	28	12	0	0	0	0
1620	1640	136	113	91	68	45	30	14	0	0	0	0
1640	1660	139	116	94	71	48	32	16	1	0	0	0
1660	1680	142	119	97	74	51	34	18	3	0	0	0
1680	1700	145	122	100	77	54	36	20	5	0	0	0
1700	1720	148	125	103	80	57	38	22	7	0	0	0
1720	1740	151	128	106	83	60	40	24	9	0	0	0
1740	1760	154	131	109	86	63	42	26	11	0	0	0
1760	1780	157	134	112	89	66	44	28	13	0	0	0
1780	1800	160	137	115	92	69	46	30	15	0	0	0
1800	1820	163	140	118	95	72	49	32	17	2	0	0
1820	1840	166	143	121	98	75	52	34	19	4	0	0
1840	1860	169	146	124	101	78	55	36	21	6	0	0
1860	1880	172	149	127	104	81	58	38	23	8	0	0
1880	1900	175	152	130	107	84	61	40	25	10	0	0
1900	1920	178	155	133	110	87	64	42	27	12	0	0
1920	1940	181	158	136	113	90	67	44	29	14	0	0
1940	1960	184	161	139	116	93	70	47	31	16	1	0
1960	1980	187	164	142	119	96	73	50	33	18	3	0
1980	2000	190	167	145	122	99	76	53	35	20	5	0
2000	2020	193	170	148	125	102	79	56	37	22	7	0
2020	2040	196	173	151	128	105	82	59	39	24	9	0
2040	2060	199	176	154	131	108	85	62	41	26	11	0
2060	2080	202	179	157	134	111	88	65	43	28	13	0
2080	2100	205	182	160	137	114	91	68	45	30	15	0
2100	2120	208	185	163	140	117	94	71	48	32	17	2
2120	2140	211	188	166	143	120	97	74	51	34	19	4
2140	2160	214	191	169	146	123	100	77	54	36	21	6
2160	2180	217	194	172	149	126	103	80	57	38	23	8
2180	2200	220	197	175	152	129	106	83	60	40	25	10
2200	2220	223	200	178	155	132	109	86	63	42	27	12
2220	2240	226	203	181	158	135	112	89	66	44	29	14
2240	2260	229	206	184	161	138	115	92	69	47	31	16

MARRIED Persons—**SEMIMONTHLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$2260	$2280	$232	$209	$187	$164	$141	$118	$95	$72	$50	$33	$18
2280	2300	235	212	190	167	144	121	98	75	53	35	20
2300	2320	238	215	193	170	147	124	101	78	56	37	22
2320	2340	241	218	196	173	150	127	104	81	59	39	24
2340	2360	244	221	199	176	153	130	107	84	62	41	26
2360	2380	247	224	202	179	156	133	110	87	65	43	28
2380	2400	250	227	205	182	159	136	113	90	68	45	30
2400	2420	253	230	208	185	162	139	116	93	71	48	32
2420	2440	256	233	211	188	165	142	119	96	74	51	34
2440	2460	259	236	214	191	168	145	122	99	77	54	36
2460	2480	262	239	217	194	171	148	125	102	80	57	38
2480	2500	265	242	220	197	174	151	128	105	83	60	40
2500	2520	268	245	223	200	177	154	131	108	86	63	42
2520	2540	271	248	226	203	180	157	134	111	89	66	44
2540	2560	274	251	229	206	183	160	137	114	92	69	46
2560	2580	277	254	232	209	186	163	140	117	95	72	49
2580	2600	280	257	235	212	189	166	143	120	98	75	52
2600	2620	283	260	238	215	192	169	146	123	101	78	55
2620	2640	286	263	241	218	195	172	149	126	104	81	58
2640	2660	289	266	244	221	198	175	152	129	107	84	61
2660	2680	292	269	247	224	201	178	155	132	110	87	64
2680	2700	295	272	250	227	204	181	158	135	113	90	67
2700	2720	298	275	253	230	207	184	161	138	116	93	70
2720	2740	301	278	256	233	210	187	164	141	119	96	73
$2740 and over		Use Table 3(b) for a **MARRIED person** on page 39. Also see the instructions on page 37.										

SINGLE Persons—MONTHLY Payroll Period
(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$500	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
500	520	1	0	0	0	0	0	0	0	0	0	0
520	540	3	0	0	0	0	0	0	0	0	0	0
540	560	5	0	0	0	0	0	0	0	0	0	0
560	580	7	0	0	0	0	0	0	0	0	0	0
580	600	9	0	0	0	0	0	0	0	0	0	0
600	640	12	0	0	0	0	0	0	0	0	0	0
640	680	16	0	0	0	0	0	0	0	0	0	0
680	720	20	0	0	0	0	0	0	0	0	0	0
720	760	24	0	0	0	0	0	0	0	0	0	0
760	800	28	0	0	0	0	0	0	0	0	0	0
800	840	32	1	0	0	0	0	0	0	0	0	0
840	880	36	5	0	0	0	0	0	0	0	0	0
880	920	41	9	0	0	0	0	0	0	0	0	0
920	960	47	13	0	0	0	0	0	0	0	0	0
960	1000	53	17	0	0	0	0	0	0	0	0	0
1000	1040	59	21	0	0	0	0	0	0	0	0	0
1040	1080	65	25	0	0	0	0	0	0	0	0	0
1080	1120	71	29	0	0	0	0	0	0	0	0	0
1120	1160	77	33	3	0	0	0	0	0	0	0	0
1160	1200	83	38	7	0	0	0	0	0	0	0	0
1200	1240	89	44	11	0	0	0	0	0	0	0	0
1240	1280	95	50	15	0	0	0	0	0	0	0	0
1280	1320	101	56	19	0	0	0	0	0	0	0	0
1320	1360	107	62	23	0	0	0	0	0	0	0	0
1360	1400	113	68	27	0	0	0	0	0	0	0	0
1400	1440	119	74	31	0	0	0	0	0	0	0	0
1440	1480	125	80	35	4	0	0	0	0	0	0	0
1480	1520	131	86	40	8	0	0	0	0	0	0	0
1520	1560	137	92	46	12	0	0	0	0	0	0	0
1560	1600	143	98	52	16	0	0	0	0	0	0	0
1600	1640	149	104	58	20	0	0	0	0	0	0	0
1640	1680	155	110	64	24	0	0	0	0	0	0	0
1680	1720	161	116	70	28	0	0	0	0	0	0	0
1720	1760	167	122	76	32	2	0	0	0	0	0	0
1760	1800	173	128	82	36	6	0	0	0	0	0	0
1800	1840	179	134	88	42	10	0	0	0	0	0	0
1840	1880	185	140	94	48	14	0	0	0	0	0	0
1880	1920	191	146	100	54	18	0	0	0	0	0	0
1920	1960	197	152	106	60	22	0	0	0	0	0	0
1960	2000	203	158	112	66	26	0	0	0	0	0	0
2000	2040	209	164	118	72	30	0	0	0	0	0	0
2040	2080	215	170	124	78	34	4	0	0	0	0	0
2080	2120	221	176	130	84	39	8	0	0	0	0	0
2120	2160	227	182	136	90	45	12	0	0	0	0	0
2160	2200	233	188	142	96	51	16	0	0	0	0	0
2200	2240	239	194	148	102	57	20	0	0	0	0	0
2240	2280	245	200	154	108	63	24	0	0	0	0	0
2280	2320	251	206	160	114	69	28	0	0	0	0	0
2320	2360	257	212	166	120	75	32	1	0	0	0	0
2360	2400	263	218	172	126	81	36	5	0	0	0	0
2400	2440	269	224	178	132	87	41	9	0	0	0	0
2440	2480	275	230	184	138	93	47	13	0	0	0	0
2480	2520	281	236	190	144	99	53	17	0	0	0	0
2520	2560	287	242	196	150	105	59	21	0	0	0	0
2560	2600	293	248	202	156	111	65	25	0	0	0	0
2600	2640	299	254	208	162	117	71	29	0	0	0	0
2640	2680	305	260	214	168	123	77	33	3	0	0	0
2680	2720	311	266	220	174	129	83	37	7	0	0	0
2720	2760	317	272	226	180	135	89	43	11	0	0	0
2760	2800	323	278	232	186	141	95	49	15	0	0	0
2800	2840	329	284	238	192	147	101	55	19	0	0	0
2840	2880	335	290	244	198	153	107	61	23	0	0	0
2880	2920	341	296	250	204	159	113	67	27	0	0	0
2920	2960	347	302	256	210	165	119	73	31	0	0	0
2960	3000	353	308	262	216	171	125	79	35	4	0	0
3000	3040	361	314	268	222	177	131	85	40	8	0	0
3040	3080	371	320	274	228	183	137	91	46	12	0	0
3080	3120	381	326	280	234	189	143	97	52	16	0	0
3120	3160	391	332	286	240	195	149	103	58	20	0	0
3160	3200	401	338	292	246	201	155	109	64	24	0	0
3200	3240	411	344	298	252	207	161	115	70	28	0	0
3240	3280	421	350	304	258	213	167	121	76	32	2	0
3280	3320	431	356	310	264	219	173	127	82	36	6	0
3320	3360	441	365	316	270	225	179	133	88	42	10	0
3360	3400	451	375	322	276	231	185	139	94	48	14	0
3400	3440	461	385	328	282	237	191	145	100	54	18	0
3440	3480	471	395	334	288	243	197	151	106	60	22	0
3480	3520	481	405	340	294	249	203	157	112	66	26	0
3520	3560	491	415	346	300	255	209	163	118	72	30	0
3560	3600	501	425	352	306	261	215	169	124	78	34	3
3600	3640	511	435	359	312	267	221	175	130	84	39	7
3640	3680	521	445	369	318	273	227	181	136	90	45	11
3680	3720	531	455	379	324	279	233	187	142	96	51	15
3720	3760	541	465	389	330	285	239	193	148	102	57	19

SINGLE Persons—**MONTHLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$3760	$3800	$551	$475	$399	$336	$291	$245	$199	$154	$108	$63	$23
3800	3840	561	485	409	342	297	251	205	160	114	69	27
3840	3880	571	495	419	348	303	257	211	166	120	75	31
3880	3920	581	505	429	354	309	263	217	172	126	81	35
3920	3960	591	515	439	363	315	269	223	178	132	87	41
3960	4000	601	525	449	373	321	275	229	184	138	93	47
4000	4040	611	535	459	383	327	281	235	190	144	99	53
4040	4080	621	545	469	393	333	287	241	196	150	105	59
4080	4120	631	555	479	403	339	293	247	202	156	111	65
4120	4160	641	565	489	413	345	299	253	208	162	117	71
4160	4200	651	575	499	423	351	305	259	214	168	123	77
4200	4240	661	585	509	433	357	311	265	220	174	129	83
4240	4280	671	595	519	443	367	317	271	226	180	135	89
4280	4320	681	605	529	453	377	323	277	232	186	141	95
4320	4360	691	615	539	463	387	329	283	238	192	147	101
4360	4400	701	625	549	473	397	335	289	244	198	153	107
4400	4440	711	635	559	483	407	341	295	250	204	159	113
4440	4480	721	645	569	493	417	347	301	256	210	165	119
4480	4520	731	655	579	503	427	353	307	262	216	171	125
4520	4560	741	665	589	513	437	361	313	268	222	177	131
4560	4600	751	675	599	523	447	371	319	274	228	183	137
4600	4640	761	685	609	533	457	381	325	280	234	189	143
4640	4680	771	695	619	543	467	391	331	286	240	195	149
4680	4720	781	705	629	553	477	401	337	292	246	201	155
4720	4760	791	715	639	563	487	411	343	298	252	207	161
4760	4800	801	725	649	573	497	421	349	304	258	213	167
4800	4840	811	735	659	583	507	431	355	310	264	219	173
4840	4880	821	745	669	593	517	441	364	316	270	225	179
4880	4920	831	755	679	603	527	451	374	322	276	231	185
4920	4960	841	765	689	613	537	461	384	328	282	237	191
4960	5000	851	775	699	623	547	471	394	334	288	243	197
5000	5040	861	785	709	633	557	481	404	340	294	249	203
5040	5080	871	795	719	643	567	491	414	346	300	255	209
$5080 and over		Use Table 4(a) for a **SINGLE person** on page 39. Also see the instructions on page 37.										

MARRIED Persons—MONTHLY Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$1160	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
1160	1200	3	0	0	0	0	0	0	0	0	0	0
1200	1240	7	0	0	0	0	0	0	0	0	0	0
1240	1280	11	0	0	0	0	0	0	0	0	0	0
1280	1320	15	0	0	0	0	0	0	0	0	0	0
1320	1360	19	0	0	0	0	0	0	0	0	0	0
1360	1400	23	0	0	0	0	0	0	0	0	0	0
1400	1440	27	0	0	0	0	0	0	0	0	0	0
1440	1480	31	1	0	0	0	0	0	0	0	0	0
1480	1520	35	5	0	0	0	0	0	0	0	0	0
1520	1560	39	9	0	0	0	0	0	0	0	0	0
1560	1600	43	13	0	0	0	0	0	0	0	0	0
1600	1640	47	17	0	0	0	0	0	0	0	0	0
1640	1680	51	21	0	0	0	0	0	0	0	0	0
1680	1720	55	25	0	0	0	0	0	0	0	0	0
1720	1760	59	29	0	0	0	0	0	0	0	0	0
1760	1800	63	33	3	0	0	0	0	0	0	0	0
1800	1840	67	37	7	0	0	0	0	0	0	0	0
1840	1880	71	41	11	0	0	0	0	0	0	0	0
1880	1920	75	45	15	0	0	0	0	0	0	0	0
1920	1960	79	49	19	0	0	0	0	0	0	0	0
1960	2000	83	53	23	0	0	0	0	0	0	0	0
2000	2040	87	57	27	0	0	0	0	0	0	0	0
2040	2080	92	61	31	0	0	0	0	0	0	0	0
2080	2120	98	65	35	4	0	0	0	0	0	0	0
2120	2160	104	69	39	8	0	0	0	0	0	0	0
2160	2200	110	73	43	12	0	0	0	0	0	0	0
2200	2240	116	77	47	16	0	0	0	0	0	0	0
2240	2280	122	81	51	20	0	0	0	0	0	0	0
2280	2320	128	85	55	24	0	0	0	0	0	0	0
2320	2360	134	89	59	28	0	0	0	0	0	0	0
2360	2400	140	95	63	32	2	0	0	0	0	0	0
2400	2440	146	101	67	36	6	0	0	0	0	0	0
2440	2480	152	107	71	40	10	0	0	0	0	0	0
2480	2520	158	113	75	44	14	0	0	0	0	0	0
2520	2560	164	119	79	48	18	0	0	0	0	0	0
2560	2600	170	125	83	52	22	0	0	0	0	0	0
2600	2640	176	131	87	56	26	0	0	0	0	0	0
2640	2680	182	137	91	60	30	0	0	0	0	0	0
2680	2720	188	143	97	64	34	3	0	0	0	0	0
2720	2760	194	149	103	68	38	7	0	0	0	0	0
2760	2800	200	155	109	72	42	11	0	0	0	0	0
2800	2840	206	161	115	76	46	15	0	0	0	0	0
2840	2880	212	167	121	80	50	19	0	0	0	0	0
2880	2920	218	173	127	84	54	23	0	0	0	0	0
2920	2960	224	179	133	88	58	27	0	0	0	0	0
2960	3000	230	185	139	93	62	31	1	0	0	0	0
3000	3040	236	191	145	99	66	35	5	0	0	0	0
3040	3080	242	197	151	105	70	39	9	0	0	0	0
3080	3120	248	203	157	111	74	43	13	0	0	0	0
3120	3160	254	209	163	117	78	47	17	0	0	0	0
3160	3200	260	215	169	123	82	51	21	0	0	0	0
3200	3240	266	221	175	129	86	55	25	0	0	0	0
3240	3280	272	227	181	135	90	59	29	0	0	0	0
3280	3320	278	233	187	141	96	63	33	3	0	0	0
3320	3360	284	239	193	147	102	67	37	7	0	0	0
3360	3400	290	245	199	153	108	71	41	11	0	0	0
3400	3440	296	251	205	159	114	75	45	15	0	0	0
3440	3480	302	257	211	165	120	79	49	19	0	0	0
3480	3520	308	263	217	171	126	83	53	23	0	0	0
3520	3560	314	269	223	177	132	87	57	27	0	0	0
3560	3600	320	275	229	183	138	92	61	31	0	0	0
3600	3640	326	281	235	189	144	98	65	35	4	0	0
3640	3680	332	287	241	195	150	104	69	39	8	0	0
3680	3720	338	293	247	201	156	110	73	43	12	0	0
3720	3760	344	299	253	207	162	116	77	47	16	0	0
3760	3800	350	305	259	213	168	122	81	51	20	0	0
3800	3840	356	311	265	219	174	128	85	55	24	0	0
3840	3880	362	317	271	225	180	134	89	59	28	0	0
3880	3920	368	323	277	231	186	140	95	63	32	2	0
3920	3960	374	329	283	237	192	146	101	67	36	6	0
3960	4000	380	335	289	243	198	152	107	71	40	10	0
4000	4040	386	341	295	249	204	158	113	75	44	14	0
4040	4080	392	347	301	255	210	164	119	79	48	18	0
4080	4120	398	353	307	261	216	170	125	83	52	22	0
4120	4160	404	359	313	267	222	176	131	87	56	26	0
4160	4200	410	365	319	273	228	182	137	91	60	30	0
4200	4240	416	371	325	279	234	188	143	97	64	34	3
4240	4280	422	377	331	285	240	194	149	103	68	38	7
4280	4320	428	383	337	291	246	200	155	109	72	42	11
4320	4360	434	389	343	297	252	206	161	115	76	46	15
4360	4400	440	395	349	303	258	212	167	121	80	50	19
4400	4440	446	401	355	309	264	218	173	127	84	54	23
4440	4480	452	407	361	315	270	224	179	133	88	58	27
4480	4520	458	413	367	321	276	230	185	139	93	62	31

MARRIED Persons—**MONTHLY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$4520	$4560	$464	$419	$373	$327	$282	$236	$191	$145	$99	$66	$35
4560	4600	470	425	379	333	288	242	197	151	105	70	39
4600	4640	476	431	385	339	294	248	203	157	111	74	43
4640	4680	482	437	391	345	300	254	209	163	117	78	47
4680	4720	488	443	397	351	306	260	215	169	123	82	51
4720	4760	494	449	403	357	312	266	221	175	129	86	55
4760	4800	500	455	409	363	318	272	227	181	135	90	59
4800	4840	506	461	415	369	324	278	233	187	141	96	63
4840	4880	512	467	421	375	330	284	239	193	147	102	67
4880	4920	518	473	427	381	336	290	245	199	153	108	71
4920	4960	524	479	433	387	342	296	251	205	159	114	75
4960	5000	530	485	439	393	348	302	257	211	165	120	79
5000	5040	536	491	445	399	354	308	263	217	171	126	83
5040	5080	542	497	451	405	360	314	269	223	177	132	87
5080	5120	548	503	457	411	366	320	275	229	183	138	92
5120	5160	554	509	463	417	372	326	281	235	189	144	98
5160	5200	560	515	469	423	378	332	287	241	195	150	104
5200	5240	566	521	475	429	384	338	293	247	201	156	110
5240	5280	572	527	481	435	390	344	299	253	207	162	116
5280	5320	578	533	487	441	396	350	305	259	213	168	122
5320	5360	584	539	493	447	402	356	311	265	219	174	128
5360	5400	590	545	499	453	408	362	317	271	225	180	134
5400	5440	596	551	505	459	414	368	323	277	231	186	140
5440	5480	602	557	511	465	420	374	329	283	237	192	146
5480	5520	608	563	517	471	426	380	335	289	243	198	152
5520	5560	614	569	523	477	432	386	341	295	249	204	158
5560	5600	620	575	529	483	438	392	347	301	255	210	164
5600	5640	626	581	535	489	444	398	353	307	261	216	170
5640	5680	632	587	541	495	450	404	359	313	267	222	176
5680	5720	638	593	547	501	456	410	365	319	273	228	182
5720	5760	644	599	553	507	462	416	371	325	279	234	188
5760	5800	650	605	559	513	468	422	377	331	285	240	194
5800	5840	656	611	565	519	474	428	383	337	291	246	200
5840	5880	662	617	571	525	480	434	389	343	297	252	206
$5880 and over		Use Table 4(b) for a **MARRIED person** on page 39. Also see the instructions on page 37.										

SINGLE Persons—DAILY Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$27	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
27	30	1	0	0	0	0	0	0	0	0	0	0
30	33	1	0	0	0	0	0	0	0	0	0	0
33	36	1	0	0	0	0	0	0	0	0	0	0
36	39	1	0	0	0	0	0	0	0	0	0	0
39	42	2	0	0	0	0	0	0	0	0	0	0
42	45	2	1	0	0	0	0	0	0	0	0	0
45	48	3	1	0	0	0	0	0	0	0	0	0
48	51	3	1	0	0	0	0	0	0	0	0	0
51	54	4	2	0	0	0	0	0	0	0	0	0
54	57	4	2	0	0	0	0	0	0	0	0	0
57	60	4	2	1	0	0	0	0	0	0	0	0
60	63	5	3	1	0	0	0	0	0	0	0	0
63	66	5	3	1	0	0	0	0	0	0	0	0
66	69	6	4	2	0	0	0	0	0	0	0	0
69	72	6	4	2	1	0	0	0	0	0	0	0
72	75	7	5	2	1	0	0	0	0	0	0	0
75	78	7	5	3	1	0	0	0	0	0	0	0
78	81	8	5	3	1	0	0	0	0	0	0	0
81	84	8	6	4	2	0	0	0	0	0	0	0
84	87	8	6	4	2	1	0	0	0	0	0	0
87	90	9	7	5	3	1	0	0	0	0	0	0
90	93	9	7	5	3	1	0	0	0	0	0	0
93	96	10	8	6	4	2	0	0	0	0	0	0
96	99	10	8	6	4	2	0	0	0	0	0	0
99	102	11	9	7	4	2	1	0	0	0	0	0
102	105	11	9	7	5	3	1	0	0	0	0	0
105	108	12	10	7	5	3	1	0	0	0	0	0
108	111	12	10	8	6	4	2	0	0	0	0	0
111	114	13	10	8	6	4	2	1	0	0	0	0
114	117	13	11	9	7	5	2	1	0	0	0	0
117	120	13	11	9	7	5	3	1	0	0	0	0
120	123	14	12	10	8	5	3	1	0	0	0	0
123	126	14	12	10	8	6	4	2	0	0	0	0
126	129	15	13	11	8	6	4	2	1	0	0	0
129	132	15	13	11	9	7	5	3	1	0	0	0
132	135	16	14	11	9	7	5	3	1	0	0	0
135	138	16	14	12	10	8	6	4	1	0	0	0
138	141	17	14	12	10	8	6	4	2	0	0	0
141	144	17	15	13	11	9	7	4	2	1	0	0
144	147	18	15	13	11	9	7	5	3	1	0	0
147	150	19	16	14	12	10	7	5	3	1	0	0
150	153	20	16	14	12	10	8	6	4	2	0	0
153	156	20	17	15	13	10	8	6	4	2	0	0
156	159	21	18	15	13	11	9	7	5	2	1	0
159	162	22	18	16	13	11	9	7	5	3	1	0
162	165	23	19	16	14	12	10	8	5	3	1	0
165	168	23	20	16	14	12	10	8	6	4	2	0
168	171	24	21	17	15	13	11	8	6	4	2	1
171	174	25	21	18	15	13	11	9	7	5	3	1
174	177	26	22	19	16	14	11	9	7	5	3	1
177	180	26	23	19	16	14	12	10	8	6	3	1
180	183	27	24	20	17	14	12	10	8	6	4	2
183	186	28	24	21	17	15	13	11	9	6	4	2
186	189	29	25	22	18	15	13	11	9	7	5	3
189	192	29	26	22	19	16	14	12	10	7	5	3
192	195	30	27	23	20	16	14	12	10	8	6	4
195	198	31	27	24	20	17	15	13	10	8	6	4
198	201	32	28	25	21	18	15	13	11	9	7	5
201	204	32	29	25	22	18	16	13	11	9	7	5
204	207	33	30	26	23	19	16	14	12	10	8	5
207	210	34	30	27	23	20	16	14	12	10	8	6
210	213	35	31	28	24	21	17	15	13	11	8	6
213	216	35	32	28	25	21	18	15	13	11	9	7
216	219	36	33	29	26	22	19	16	14	11	9	7
219	222	37	33	30	26	23	19	16	14	12	10	8
222	225	38	34	31	27	24	20	17	14	12	10	8
225	228	38	35	31	28	24	21	17	15	13	11	9
228	231	39	36	32	29	25	22	18	15	13	11	9
231	234	40	36	33	29	26	22	19	16	14	12	9
234	237	41	37	34	30	27	23	20	16	14	12	10
237	240	41	38	34	31	27	24	20	17	15	12	10
240	243	42	39	35	32	28	25	21	18	15	13	11
243	246	43	39	36	32	29	25	22	18	15	13	11
246	249	44	40	37	33	30	26	23	19	16	14	12
249	252	44	41	37	34	30	27	23	20	16	14	12
252	255	45	42	38	35	31	28	24	21	17	15	13
255	258	46	42	39	35	32	28	25	21	18	15	13
258	261	47	43	40	36	33	29	26	22	19	16	14
261	264	47	44	40	37	33	30	26	23	19	16	14
264	267	48	45	41	38	34	31	27	24	20	17	14
267	270	49	45	42	38	35	31	28	24	21	17	15
270	273	50	46	43	39	36	32	29	25	22	18	15
273	276	51	47	43	40	36	33	29	26	22	19	16
276	279	52	48	44	41	37	34	30	27	23	20	16

SINGLE Persons—DAILY Payroll Period

(For Wages Paid Through December 2010)

And the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$279	$282	$52	$49	$45	$41	$38	$34	$31	$27	$24	$20	$17
282	285	53	49	46	42	39	35	32	28	25	21	18
285	288	54	50	46	43	39	36	32	29	25	22	18
288	291	55	51	47	44	40	37	33	30	26	23	19
291	294	56	52	48	44	41	37	34	30	27	23	20
294	297	56	53	49	45	42	38	35	31	28	24	21
297	300	57	53	50	46	42	39	35	32	28	25	21
300	303	58	54	50	47	43	40	36	33	29	26	22
303	306	59	55	51	47	44	40	37	33	30	26	23
306	309	60	56	52	48	45	41	38	34	31	27	24
309	312	60	57	53	49	45	42	38	35	31	28	24
312	315	61	57	54	50	46	43	39	36	32	29	25
315	318	62	58	54	51	47	43	40	36	33	29	26
318	321	63	59	55	51	48	44	41	37	34	30	27
321	324	64	60	56	52	49	45	41	38	34	31	27
324	327	65	61	57	53	49	46	42	39	35	32	28
327	330	65	61	58	54	50	46	43	39	36	32	29
330	333	66	62	59	55	51	47	44	40	37	33	30
333	336	67	63	59	56	52	48	44	41	37	34	30
336	339	68	64	60	56	53	49	45	42	38	35	31
339	341	69	65	61	57	53	49	46	42	39	35	32
341	343	69	65	61	58	54	50	46	43	39	36	32
343	345	70	66	62	58	54	51	47	43	40	36	33
345	347	70	66	62	59	55	51	47	44	40	37	33
347	349	71	67	63	59	55	52	48	44	41	37	34
349	351	72	68	64	60	56	52	48	45	41	38	34
351	353	72	68	64	60	56	53	49	45	42	38	35
353	355	73	69	65	61	57	53	49	46	42	39	35
355	357	73	69	65	61	58	54	50	46	43	39	36
357	359	74	70	66	62	58	54	51	47	43	40	36
359	361	74	70	66	62	59	55	51	47	44	40	37
361	363	75	71	67	63	59	55	52	48	44	41	37
363	365	76	72	68	64	60	56	52	48	45	41	38
365	367	76	72	68	64	60	56	53	49	45	42	38
367	369	77	73	69	65	61	57	53	49	46	42	39
369	371	77	73	69	65	61	58	54	50	46	43	39
371	373	78	74	70	66	62	58	54	51	47	43	40
373	375	78	74	70	66	62	59	55	51	47	44	40
375	377	79	75	71	67	63	59	55	52	48	44	41
377	379	79	76	72	68	63	60	56	52	48	45	41
379	381	80	76	72	68	64	60	56	53	49	45	42
381	383	81	77	73	69	65	61	57	53	49	46	42
383	385	81	77	73	69	65	61	58	54	50	46	43
385	387	82	78	74	70	66	62	58	54	50	47	43
387	389	82	78	74	70	66	62	59	55	51	47	44
389	391	83	79	75	71	67	63	59	55	52	48	44
$391 and over		Use Table 8(a) for a **SINGLE person** on page 40. Also see the instructions on page 37.										

MARRIED Persons—**DAILY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$0	$57	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
57	60	1	0	0	0	0	0	0	0	0	0	0
60	63	1	0	0	0	0	0	0	0	0	0	0
63	66	1	0	0	0	0	0	0	0	0	0	0
66	69	1	0	0	0	0	0	0	0	0	0	0
69	72	2	0	0	0	0	0	0	0	0	0	0
72	75	2	1	0	0	0	0	0	0	0	0	0
75	78	2	1	0	0	0	0	0	0	0	0	0
78	81	3	1	0	0	0	0	0	0	0	0	0
81	84	3	2	0	0	0	0	0	0	0	0	0
84	87	3	2	0	0	0	0	0	0	0	0	0
87	90	4	2	1	0	0	0	0	0	0	0	0
90	93	4	2	1	0	0	0	0	0	0	0	0
93	96	4	3	1	0	0	0	0	0	0	0	0
96	99	5	3	2	0	0	0	0	0	0	0	0
99	102	5	3	2	1	0	0	0	0	0	0	0
102	105	6	4	2	1	0	0	0	0	0	0	0
105	108	6	4	3	1	0	0	0	0	0	0	0
108	111	6	4	3	1	0	0	0	0	0	0	0
111	114	7	5	3	2	0	0	0	0	0	0	0
114	117	7	5	3	2	1	0	0	0	0	0	0
117	120	8	6	4	2	1	0	0	0	0	0	0
120	123	8	6	4	3	1	0	0	0	0	0	0
123	126	9	7	4	3	2	0	0	0	0	0	0
126	129	9	7	5	3	2	0	0	0	0	0	0
129	132	10	7	5	4	2	1	0	0	0	0	0
132	135	10	8	6	4	2	1	0	0	0	0	0
135	138	10	8	6	4	3	1	0	0	0	0	0
138	141	11	9	7	5	3	2	0	0	0	0	0
141	144	11	9	7	5	3	2	1	0	0	0	0
144	147	12	10	8	6	4	2	1	0	0	0	0
147	150	12	10	8	6	4	3	1	0	0	0	0
150	153	13	11	9	6	4	3	1	0	0	0	0
153	156	13	11	9	7	5	3	2	0	0	0	0
156	159	14	12	9	7	5	3	2	1	0	0	0
159	162	14	12	10	8	6	4	2	1	0	0	0
162	165	15	12	10	8	6	4	3	1	0	0	0
165	168	15	13	11	9	7	4	3	2	0	0	0
168	171	15	13	11	9	7	5	3	2	0	0	0
171	174	16	14	12	10	7	5	4	2	1	0	0
174	177	16	14	12	10	8	6	4	2	1	0	0
177	180	17	15	13	10	8	6	4	3	1	0	0
180	183	17	15	13	11	9	7	5	3	2	0	0
183	186	18	16	13	11	9	7	5	3	2	1	0
186	189	18	16	14	12	10	8	5	4	2	1	0
189	192	19	16	14	12	10	8	6	4	3	1	0
192	195	19	17	15	13	11	8	6	4	3	1	0
195	198	19	17	15	13	11	9	7	5	3	2	0
198	201	20	18	16	14	12	9	7	5	3	2	1
201	204	20	18	16	14	12	10	8	6	4	2	1
204	207	21	19	17	15	12	10	8	6	4	3	1
207	210	21	19	17	15	13	11	9	7	4	3	2
210	213	22	20	18	15	13	11	9	7	5	3	2
213	216	22	20	18	16	14	12	10	7	5	4	2
216	219	23	21	18	16	14	12	10	8	6	4	2
219	222	23	21	19	17	15	13	10	8	6	4	3
222	225	24	21	19	17	15	13	11	9	7	5	3
225	228	24	22	20	18	16	13	11	9	7	5	3
228	231	24	22	20	18	16	14	12	10	8	5	4
231	234	25	23	21	19	16	14	12	10	8	6	4
234	237	25	23	21	19	17	15	13	11	8	6	4
237	240	26	24	22	19	17	15	13	11	9	7	5
240	243	26	24	22	20	18	16	14	11	9	7	5
243	246	27	25	22	20	18	16	14	12	10	8	6
246	249	27	25	23	21	19	17	14	12	10	8	6
249	252	28	25	23	21	19	17	15	13	11	9	7
252	255	28	26	24	22	20	17	15	13	11	9	7
255	258	28	26	24	22	20	18	16	14	12	10	7
258	261	29	27	25	23	21	18	16	14	12	10	8
261	264	29	27	25	23	21	19	17	15	13	10	8
264	267	30	28	26	24	21	19	17	15	13	11	9
267	270	30	28	26	24	22	20	18	16	13	11	9
270	273	31	29	27	24	22	20	18	16	14	12	10
273	276	31	29	27	25	23	21	19	16	14	12	10
276	279	32	30	27	25	23	21	19	17	15	13	11
279	282	32	30	28	26	24	22	19	17	15	13	11
282	285	33	30	28	26	24	22	20	18	16	14	11
285	288	33	31	29	27	25	22	20	18	16	14	12
288	291	33	31	29	27	25	23	21	19	17	14	12
291	294	34	32	30	28	25	23	21	19	17	15	13
294	297	35	32	30	28	26	24	22	20	17	15	13
297	300	35	33	31	28	26	24	22	20	18	16	14
300	303	36	33	31	29	27	25	23	20	18	16	14
303	306	37	34	31	29	27	25	23	21	19	17	15
306	309	38	34	32	30	28	26	23	21	19	17	15

MARRIED Persons—**DAILY** Payroll Period

(For Wages Paid Through December 2010)

And the wages are–		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
$309	$312	$38	$35	$32	$30	$28	$26	$24	$22	$20	$18	$16
312	315	39	36	33	31	29	26	24	22	20	18	16
315	318	40	36	33	31	29	27	25	23	21	19	16
318	321	41	37	34	32	30	27	25	23	21	19	17
321	324	41	38	34	32	30	28	26	24	22	19	17
324	327	42	39	35	33	30	28	26	24	22	20	18
327	330	43	39	36	33	31	29	27	25	22	20	18
330	333	44	40	37	33	31	29	27	25	23	21	19
333	336	44	41	37	34	32	30	28	25	23	21	19
336	339	45	42	38	35	32	30	28	26	24	22	20
339	341	46	42	39	35	33	30	28	26	24	22	20
341	343	46	43	39	36	33	31	29	27	24	22	20
343	345	47	43	40	36	33	31	29	27	25	23	21
345	347	47	44	40	37	33	31	29	27	25	23	21
347	349	48	44	41	37	34	32	30	27	25	23	21
349	351	48	45	41	38	34	32	30	28	26	24	21
351	353	49	45	42	38	35	32	30	28	26	24	22
353	355	49	46	42	39	35	33	30	28	26	24	22
355	357	50	46	43	39	36	33	31	29	27	24	22
357	359	50	47	43	40	36	33	31	29	27	25	23
359	361	51	47	44	40	37	33	31	29	27	25	23
361	363	51	48	44	41	37	34	32	30	27	25	23
363	365	52	48	45	41	38	34	32	30	28	26	24
365	367	52	49	45	42	38	35	32	30	28	26	24
367	369	53	49	46	42	39	35	33	30	28	26	24
369	371	54	50	46	43	39	36	33	31	29	27	24
371	373	54	50	47	43	40	36	33	31	29	27	25
373	375	55	51	47	44	40	37	33	31	29	27	25
375	377	55	51	48	44	41	37	34	32	30	27	25
377	379	56	52	48	45	41	38	34	32	30	28	26
379	381	56	52	49	45	42	38	35	32	30	28	26
381	383	57	53	49	46	42	39	35	33	30	28	26
383	385	57	54	50	46	43	39	36	33	31	29	27
385	387	58	54	50	47	43	40	36	33	31	29	27
387	389	58	55	51	47	44	40	37	33	31	29	27
389	391	59	55	51	48	44	41	37	34	32	30	27
391	393	59	56	52	48	45	41	38	34	32	30	28
393	395	60	56	52	49	45	42	38	35	32	30	28
395	397	61	57	53	49	46	42	39	35	33	30	28
397	399	61	57	54	50	46	43	39	36	33	31	29
399	401	62	58	54	50	47	43	40	36	33	31	29
$401 and over		Use Table 8(b) for a **MARRIED person** on page 40. Also see the instructions on page 37.										

Tables for Percentage Method of Advance EIC Payments

(For Wages Paid Through December 2010)

TABLE 1—WEEKLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$172	20.40% of wages
$172	$316	$35
$316		$35 less 9.588% of wages in excess of $316

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$172	20.40% of wages
$172	$412	$35
$412		$35 less 9.588% of wages in excess of $412

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$86	20.40% of wages
$86	$206	$18
$206		$18 less 9.588% of wages in excess of $206

TABLE 2—BIWEEKLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$345	20.40% of wages
$345	$632	$70
$632		$70 less 9.588% of wages in excess of $632

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$345	20.40% of wages
$345	$825	$70
$825		$70 less 9.588% of wages in excess of $825

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$172	20.40% of wages
$172	$412	$35
$412		$35 less 9.588% of wages in excess of $412

TABLE 3—SEMIMONTHLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$373	20.40% of wages
$373	$685	$76
$685		$76 less 9.588% of wages in excess of $685

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$373	20.40% of wages
$373	$894	$76
$894		$76 less 9.588% of wages in excess of $894

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$186	20.40% of wages
$186	$447	$38
$447		$38 less 9.588% of wages in excess of $447

TABLE 4—MONTHLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$747	20.40% of wages
$747	$1,370	$152
$1,370		$152 less 9.588% of wages in excess of $1,370

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$747	20.40% of wages
$747	$1,788	$152
$1,788		$152 less 9.588% of wages in excess of $1,788

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$373	20.40% of wages
$373	$894	$76
$894		$76 less 9.588% of wages in excess of $894

Tables for Percentage Method of Advance EIC Payments (continued)

(For Wages Paid in 2010)

TABLE 5—QUARTERLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$2,242	20.40% of wages
$2,242	$4,112	$457
$4,112		$457 less 9.588% of wages in excess of $4,112

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$2,242	20.40% of wages
$2,242	$5,365	$457
$5,365		$457 less 9.588% of wages in excess of $5,365

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$1,121	20.40% of wages
$1,121	$2,682	$229
$2,682		$229 less 9.588% of wages in excess of $2,682

TABLE 6—SEMIANNUAL Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$4,485	20.40% of wages
$4,485	$8,225	$915
$8,225		$915 less 9.588% of wages in excess of $8,225

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$4,485	20.40% of wages
$4,485	$10,730	$915
$10,730		$915 less 9.588% of wages in excess of $10,730

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$2,242	20.40% of wages
$2,242	$5,365	$457
$5,365		$457 less 9.588% of wages in excess of $5,365

TABLE 7—ANNUAL Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$8,970	20.40% of wages
$8,970	$16,450	$1,830
$16,450		$1,830 less 9.588% of wages in excess of $16,450

(b) MARRIED Without Spouse Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$8,970	20.40% of wages
$8,970	$21,460	$1,830
$21,460		$1,830 less 9.588% of wages in excess of $21,460

(c) MARRIED With Both Spouses Filing Certificate

If the amount of wages (before deducting withholding allowances) is: Over—	But not over—	The amount of payment to be made is:
$0	$4,485	20.40% of wages
$4,485	$10,730	$915
$10,730		$915 less 9.588% of wages in excess of $10,730

TABLE 8—DAILY or MISCELLANEOUS Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD

If the wages divided by the number of days in such period (before deducting withholding allowances) are: Over—	But not over—	The amount of payment to be made is the following amount multiplied by the number of days in such period:
$0	$34	20.40% of wages
$34	$63	$7
$63		$7 less 9.588% of wages in excess of $63

(b) MARRIED Without Spouse Filing Certificate

If the wages divided by the number of days in such period (before deducting withholding allowances) are: Over—	But not over—	The amount of payment to be made is the following amount multiplied by the number of days in such period:
$0	$34	20.40% of wages
$34	$82	$7
$82		$7 less 9.588% of wages in excess of $82

(c) MARRIED With Both Spouses Filing Certificate

If the wages divided by the number of days in such period (before deducting withholding allowances) are: Over—	But not over—	The amount of payment to be made is the following amount multiplied by the number of days in such period:
$0	$17	20.40% of wages
$17	$41	$3
$41		$3 less 9.588% of wages in excess of $41

Tables for Wage Bracket Method of Advance EIC Payments
(For Wages Paid Through December 2010)

WEEKLY Payroll Period

SINGLE or HEAD OF HOUSEHOLD

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$75	$80	$15	$150	$155	31	$415	$425	$25	$565	$575	$10
5	10	1	80	85	16	155	160	32	425	435	24	575	585	9
10	15	2	85	90	17	160	165	33	435	445	23	585	595	8
15	20	3	90	95	18	165	170	34	445	455	22	595	605	8
20	25	4	95	100	19	170	315	35	455	465	21	605	615	7
25	30	5	100	105	20	315	325	34	465	475	20	615	625	6
30	35	6	105	110	21	325	335	33	475	485	19	625	635	5
35	40	7	110	115	22	335	345	32	485	495	18	635	645	4
40	45	8	115	120	23	345	355	31	495	505	17	645	655	3
45	50	9	120	125	24	355	365	31	505	515	16	655	665	2
50	55	10	125	130	26	365	375	30	515	525	15	665	675	1
55	60	11	130	135	27	375	385	29	525	535	14	675	---	0
60	65	12	135	140	28	385	395	28	535	545	13			
65	70	13	140	145	29	395	405	27	545	555	12			
70	75	14	145	150	30	405	415	26	555	565	11			

MARRIED Without Spouse Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$75	$80	$15	$150	$155	$31	$510	$520	$25	$660	$670	$11
5	10	1	80	85	16	155	160	32	520	530	24	670	680	10
10	15	2	85	90	17	160	165	33	530	540	23	680	690	9
15	20	3	90	95	18	165	170	34	540	550	22	690	700	8
20	25	4	95	100	19	170	410	35	550	560	21	700	710	7
25	30	5	100	105	20	410	420	34	560	570	20	710	720	6
30	35	6	105	110	21	420	430	34	570	580	19	720	730	5
35	40	7	110	115	22	430	440	33	580	590	18	730	740	4
40	45	8	115	120	23	440	450	32	590	600	17	740	750	3
45	50	9	120	125	24	450	460	31	600	610	16	750	760	2
50	55	10	125	130	26	460	470	30	610	620	15	760	770	1
55	60	11	130	135	27	470	480	29	620	630	14	770	---	0
60	65	12	135	140	28	480	490	28	630	640	13			
65	70	13	140	145	29	490	500	27	640	650	12			
70	75	14	145	150	30	500	510	26	650	660	11			

MARRIED With Both Spouses Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$40	$45	$8	$80	$85	$16	$265	$275	$11	$345	$355	$3
5	10	1	45	50	9	85	205	17	275	285	10	355	365	2
10	15	2	50	55	10	205	215	17	285	295	9	365	375	1
15	20	3	55	60	11	215	225	16	295	305	8	375	---	0
20	25	4	60	65	12	225	235	15	305	315	7			
25	30	5	65	70	13	235	245	14	315	325	6			
30	35	6	70	75	14	245	255	13	325	335	5			
35	40	7	75	80	15	255	265	12	335	345	4			

BIWEEKLY Payroll Period

SINGLE or HEAD OF HOUSEHOLD

Wages— At least	But less than	Payment to be made
$0	$5	$0
5	10	1
10	15	2
15	20	3
20	25	4
25	30	5
30	35	6
35	40	7
40	45	8
45	50	9
50	55	10
55	60	11
60	65	12
65	70	13
70	75	14
75	80	15
80	85	16
85	90	17
90	95	18
95	100	19
100	105	20
105	110	21
110	115	22
115	120	23
120	125	24
125	130	26
130	135	27
135	140	28
140	145	29
$145	$150	$30
150	155	31
155	160	32
160	165	33
165	170	34
170	175	35
175	180	36
180	185	37
185	190	38
190	195	39
195	200	40
200	205	41
205	210	42
210	215	43
215	220	44
220	225	45
225	230	46
230	235	47
235	240	48
240	245	49
245	250	50
250	255	51
255	260	52
260	265	53
265	270	54
270	275	55
275	280	56
280	285	57
285	290	58
$290	$295	$59
295	300	60
300	305	61
305	310	62
310	315	63
315	320	64
320	325	65
325	330	66
330	335	67
335	340	68
340	630	69
630	640	70
640	650	69
650	660	68
660	670	67
670	680	66
680	690	65
690	700	64
700	710	63
710	720	62
720	730	61
730	740	60
740	750	59
750	760	58
760	770	57
770	780	56
780	790	55
790	800	54
800	810	53
$810	$820	$52
820	830	51
830	840	51
840	850	50
850	860	49
860	870	48
870	880	47
880	890	46
890	900	45
900	910	44
910	920	43
920	930	42
930	940	41
940	950	40
950	960	39
960	970	38
970	980	37
980	990	36
990	1,000	35
1,000	1,010	34
1,010	1,020	33
1,020	1,030	32
1,030	1,040	31
1,040	1,050	30
1,050	1,060	29
1,060	1,070	28
1,070	1,080	27
1,080	1,090	27
1,090	1,100	26
$1,100	$1,110	$25
1,110	1,120	24
1,120	1,130	23
1,130	1,140	22
1,140	1,150	21
1,150	1,160	20
1,160	1,170	19
1,170	1,180	18
1,180	1,190	17
1,190	1,200	16
1,200	1,210	15
1,210	1,220	14
1,220	1,230	13
1,230	1,240	12
1,240	1,250	11
1,250	1,260	10
1,260	1,270	9
1,270	1,280	8
1,280	1,290	7
1,290	1,300	6
1,300	1,310	5
1,310	1,320	4
1,320	1,330	4
1,330	1,340	3
1,340	1,350	2
1,350	1,360	1
1,360	---	0

MARRIED Without Spouse Filing Certificate

Wages— At least	But less than	Payment to be made
$0	$5	$0
5	10	1
10	15	2
15	20	3
20	25	4
25	30	5
30	35	6
35	40	7
40	45	8
45	50	9
50	55	10
55	60	11
60	65	12
65	70	13
70	75	14
75	80	15
80	85	16
85	90	17
90	95	18
95	100	19
100	105	20
105	110	21
110	115	22
115	120	23
120	125	24
125	130	26
130	135	27
135	140	28
140	145	29
$145	$150	$30
150	155	31
155	160	32
160	165	33
165	170	34
170	175	35
175	180	36
180	185	37
185	190	38
190	195	39
195	200	40
200	205	41
205	210	42
210	215	43
215	220	44
220	225	45
225	230	46
230	235	47
235	240	48
240	245	49
245	250	50
250	255	51
255	260	52
260	265	53
265	270	54
270	275	55
275	280	56
280	285	57
285	290	58
$290	$295	$59
295	300	60
300	305	61
305	310	62
310	315	63
315	320	64
320	325	65
325	330	66
330	335	67
335	340	68
340	825	69
825	835	69
835	845	69
845	855	68
855	865	67
865	875	66
875	885	65
885	895	64
895	905	63
905	915	62
915	925	61
925	935	60
935	945	59
945	955	58
955	965	57
965	975	56
975	985	55
985	995	54
995	1,005	53
$1,005	$1,015	$52
1,015	1,025	51
1,025	1,035	50
1,035	1,045	49
1,045	1,055	48
1,055	1,065	47
1,065	1,075	46
1,075	1,085	45
1,085	1,095	45
1,095	1,105	44
1,105	1,115	43
1,115	1,125	42
1,125	1,135	41
1,135	1,145	40
1,145	1,155	39
1,155	1,165	38
1,165	1,175	37
1,175	1,185	36
1,185	1,195	35
1,195	1,205	34
1,205	1,215	33
1,215	1,225	32
1,225	1,235	31
1,235	1,245	30
1,245	1,255	29
1,255	1,265	28
1,265	1,275	27
1,275	1,285	26
1,285	1,295	25
$1,295	$1,305	$24
1,305	1,315	23
1,315	1,325	22
1,325	1,335	22
1,335	1,345	21
1,345	1,355	20
1,355	1,365	19
1,365	1,375	18
1,375	1,385	17
1,385	1,395	16
1,395	1,405	15
1,405	1,415	14
1,415	1,425	13
1,425	1,435	12
1,435	1,445	11
1,445	1,455	10
1,455	1,465	9
1,465	1,475	8
1,475	1,485	7
1,485	1,495	6
1,495	1,505	5
1,505	1,515	4
1,515	1,525	3
1,525	1,535	2
1,535	1,545	1
1,545	---	0

BIWEEKLY Payroll Period (continued)

MARRIED With Both Spouses Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$75	$80	$15	$150	$155	$31	$510	$520	$25	660	670	11
5	10	1	80	85	16	155	160	32	520	530	24	670	680	10
10	15	2	85	90	17	160	165	33	530	540	23	680	690	9
15	20	3	90	95	18	165	170	34	540	550	22	690	700	8
20	25	4	95	100	19	170	410	35	550	560	21	700	710	7
25	30	5	100	105	20	410	420	34	560	570	20	710	720	6
30	35	6	105	110	21	420	430	34	570	580	19	720	730	5
35	40	7	110	115	22	430	440	33	580	590	18	730	740	4
40	45	8	115	120	23	440	450	32	590	600	17	740	750	3
45	50	9	120	125	24	450	460	31	600	610	16	750	760	2
50	55	10	125	130	26	460	470	30	610	620	15	760	770	1
55	60	11	130	135	27	470	480	29	620	630	14	770	---	0
60	65	12	135	140	28	480	490	28	630	640	13			
65	70	13	140	145	29	490	500	27	640	650	12			
70	75	14	145	150	30	500	510	26	650	660	11			

SEMIMONTHLY Payroll Period

SINGLE or HEAD OF HOUSEHOLD

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$155	$160	$32	$310	$315	$63	$865	$875	$58	$1,175	$1,185	$28
5	10	1	160	165	33	315	320	64	875	885	57	1,185	1,195	27
10	15	2	165	170	34	320	325	65	885	895	56	1,195	1,205	26
15	20	3	170	175	35	325	330	66	895	905	55	1,205	1,215	25
20	25	4	175	180	36	330	335	67	905	915	54	1,215	1,225	25
25	30	5	180	185	37	335	340	68	915	925	53	1,225	1,235	24
30	35	6	185	190	38	340	345	69	925	935	52	1,235	1,245	23
35	40	7	190	195	39	345	350	70	935	945	51	1,245	1,255	22
40	45	8	195	200	40	350	355	71	945	955	50	1,255	1,265	21
45	50	9	200	205	41	355	360	72	955	965	49	1,265	1,275	20
50	55	10	205	210	42	360	365	73	965	975	48	1,275	1,285	19
55	60	11	210	215	43	365	370	74	975	985	48	1,285	1,295	18
60	65	12	215	220	44	370	685	75	985	995	47	1,295	1,305	17
65	70	13	220	225	45	685	695	75	995	1,005	46	1,305	1,315	16
70	75	14	225	230	46	695	705	74	1,005	1,015	45	1,315	1,325	15
75	80	15	230	235	47	705	715	73	1,015	1,025	44	1,325	1,335	14
80	85	16	235	240	48	715	725	72	1,025	1,035	43	1,335	1,345	13
85	90	17	240	245	49	725	735	71	1,035	1,045	42	1,345	1,355	12
90	95	18	245	250	50	735	745	71	1,045	1,055	41	1,355	1,365	11
95	100	19	250	255	51	745	755	70	1,055	1,065	40	1,365	1,375	10
100	105	20	255	260	52	755	765	69	1,065	1,075	39	1,375	1,385	9
105	110	21	260	265	53	765	775	68	1,075	1,085	38	1,385	1,395	8
110	115	22	265	270	54	775	785	67	1,085	1,095	37	1,395	1,405	7
115	120	23	270	275	55	785	795	66	1,095	1,105	36	1,405	1,415	6
120	125	24	275	280	56	795	805	65	1,105	1,115	35	1,415	1,425	5
125	130	26	280	285	57	805	815	64	1,115	1,125	34	1,425	1,435	4
130	135	27	285	290	58	815	825	63	1,125	1,135	33	1,435	1,445	3
135	140	28	290	295	59	825	835	62	1,135	1,145	32	1,445	1,455	2
140	145	29	295	300	60	835	845	61	1,145	1,155	31	1,455	1,465	2
145	150	30	300	305	61	845	855	60	1,155	1,165	30	1,465	1,475	1
150	155	31	305	310	62	855	865	59	1,165	1,175	29	1,475	---	0

SEMIMONTHLY Payroll Period (continued)

MARRIED Without Spouse Filing Certificate

Wages— At least	But less than	Payment to be made
$0	$5	$0
5	10	1
10	15	2
15	20	3
20	25	4
25	30	5
30	35	6
35	40	7
40	45	8
45	50	9
50	55	10
55	60	11
60	65	12
65	70	13
70	75	14
75	80	15
80	85	16
85	90	17
90	95	18
95	100	19
100	105	20
105	110	21
110	115	22
115	120	23
120	125	24
125	130	26
130	135	27
135	140	28
140	145	29
145	150	30
150	155	31

Wages— At least	But less than	Payment to be made
$155	$160	$32
160	165	33
165	170	34
170	175	35
175	180	36
180	185	37
185	190	38
190	195	39
195	200	40
200	205	41
205	210	42
210	215	43
215	220	44
220	225	45
225	230	46
230	235	47
235	240	48
240	245	49
245	250	50
250	255	51
255	260	52
260	265	53
265	270	54
270	275	55
275	280	56
280	285	57
285	290	58
290	295	59
295	300	60
300	305	61
305	310	62

Wages— At least	But less than	Payment to be made
$310	$315	$63
315	320	64
320	325	65
325	330	66
330	335	67
335	340	68
340	345	69
345	350	70
350	355	71
355	360	72
360	365	73
365	370	74
370	890	75
890	900	76
900	910	75
910	920	74
920	930	73
930	940	72
940	950	71
950	960	70
960	970	69
970	980	68
980	990	67
990	1,000	66
1,000	1,010	65
1,010	1,020	64
1,020	1,030	63
1,030	1,040	62
1,040	1,050	61
1,050	1,060	60
1,060	1,070	59

Wages— At least	But less than	Payment to be made
$1,070	$1,080	$58
1,080	1,090	57
1,090	1,100	57
1,100	1,110	56
1,110	1,120	55
1,120	1,130	54
1,130	1,140	53
1,140	1,150	52
1,150	1,160	51
1,160	1,170	50
1,170	1,180	49
1,180	1,190	48
1,190	1,200	47
1,200	1,210	46
1,210	1,220	45
1,220	1,230	44
1,230	1,240	43
1,240	1,250	42
1,250	1,260	41
1,260	1,270	40
1,270	1,280	39
1,280	1,290	38
1,290	1,300	37
1,300	1,310	36
1,310	1,320	35
1,320	1,330	34
1,330	1,340	34
1,340	1,350	33
1,350	1,360	32
1,360	1,370	31
1,370	1,380	30

Wages— At least	But less than	Payment to be made
$1,380	$1,390	$29
1,390	1,400	28
1,400	1,410	27
1,410	1,420	26
1,420	1,430	25
1,430	1,440	24
1,440	1,450	23
1,450	1,460	22
1,460	1,470	21
1,470	1,480	20
1,480	1,490	19
1,490	1,500	18
1,500	1,510	17
1,510	1,520	16
1,520	1,530	15
1,530	1,540	14
1,540	1,550	13
1,550	1,560	12
1,560	1,570	11
1,570	1,580	10
1,580	1,590	10
1,590	1,600	9
1,600	1,610	8
1,610	1,620	7
1,620	1,630	6
1,630	1,640	5
1,640	1,650	4
1,650	1,660	3
1,660	1,670	2
1,670	1,680	1
1,680	- - -	0

MARRIED With Both Spouses Filing Certificate

Wages— At least	But less than	Payment to be made
$0	$5	$0
5	10	1
10	15	2
15	20	3
20	25	4
25	30	5
30	35	6
35	40	7
40	45	8
45	50	9
50	55	10
55	60	11
60	65	12
65	70	13
70	75	14
75	80	15

Wages— At least	But less than	Payment to be made
$80	$85	$16
85	90	17
90	95	18
95	100	19
100	105	20
105	110	21
110	115	22
115	120	23
120	125	24
125	130	26
130	135	27
135	140	28
140	145	29
145	150	30
150	155	31
155	160	32

Wages— At least	But less than	Payment to be made
$160	$165	$33
165	170	34
170	175	35
175	180	36
180	185	37
185	445	38
445	455	37
455	465	36
465	475	35
475	485	34
485	495	34
495	505	33
505	515	32
515	525	31
525	535	30
535	545	29

Wages— At least	But less than	Payment to be made
$545	$555	$28
555	565	27
565	575	26
575	585	25
585	595	24
595	605	23
605	615	22
615	625	21
625	635	20
635	645	19
645	655	18
655	665	17
665	675	16
675	685	15
685	695	14
695	705	13

Wages— At least	But less than	Payment to be made
$705	$715	$12
715	725	11
725	735	11
735	745	10
745	755	9
755	765	8
765	775	7
775	785	6
785	795	5
795	805	4
805	815	3
815	825	2
825	835	1
835	- - -	0

MONTHLY Payroll Period

SINGLE or HEAD OF HOUSEHOLD

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$310	$315	$63	$620	$625	$126	$1,730	$1,740	$117	$2,350	$2,360	$58
5	10	1	315	320	64	625	630	128	1,740	1,750	116	2,360	2,370	57
10	15	2	320	325	65	630	635	129	1,750	1,760	115	2,370	2,380	56
15	20	3	325	330	66	635	640	130	1,760	1,770	114	2,380	2,390	55
20	25	4	330	335	67	640	645	131	1,770	1,780	113	2,390	2,400	54
25	30	5	335	340	68	645	650	132	1,780	1,790	112	2,400	2,410	53
30	35	6	340	345	69	650	655	133	1,790	1,800	111	2,410	2,420	52
35	40	7	345	350	70	655	660	134	1,800	1,810	110	2,420	2,430	51
40	45	8	350	355	71	660	665	135	1,810	1,820	109	2,430	2,440	50
45	50	9	355	360	72	665	670	136	1,820	1,830	108	2,440	2,450	49
50	55	10	360	365	73	670	675	137	1,830	1,840	108	2,450	2,460	48
55	60	11	365	370	74	675	680	138	1,840	1,850	107	2,460	2,470	47
60	65	12	370	375	75	680	685	139	1,850	1,860	106	2,470	2,480	46
65	70	13	375	380	77	685	690	140	1,860	1,870	105	2,480	2,490	45
70	75	14	380	385	78	690	695	141	1,870	1,880	104	2,490	2,500	44
75	80	15	385	390	79	695	700	142	1,880	1,890	103	2,500	2,510	43
80	85	16	390	395	80	700	705	143	1,890	1,900	102	2,510	2,520	42
85	90	17	395	400	81	705	710	144	1,900	1,910	101	2,520	2,530	41
90	95	18	400	405	82	710	715	145	1,910	1,920	100	2,530	2,540	40
95	100	19	405	410	83	715	720	146	1,920	1,930	99	2,540	2,550	39
100	105	20	410	415	84	720	725	147	1,930	1,940	98	2,550	2,560	38
105	110	21	415	420	85	725	730	148	1,940	1,950	97	2,560	2,570	38
110	115	22	420	425	86	730	735	149	1,950	1,960	96	2,570	2,580	37
115	120	23	425	430	87	735	740	150	1,960	1,970	95	2,580	2,590	36
120	125	24	430	435	88	740	745	151	1,970	1,980	94	2,590	2,600	35
125	130	26	435	440	89	745	1,370	152	1,980	1,990	93	2,600	2,610	34
130	135	27	440	445	90	1,370	1,380	152	1,990	2,000	92	2,610	2,620	33
135	140	28	445	450	91	1,380	1,390	151	2,000	2,010	91	2,620	2,630	32
140	145	29	450	455	92	1,390	1,400	150	2,010	2,020	90	2,630	2,640	31
145	150	30	455	460	93	1,400	1,410	149	2,020	2,030	89	2,640	2,650	30
150	155	31	460	465	94	1,410	1,420	148	2,030	2,040	88	2,650	2,660	29
155	160	32	465	470	95	1,420	1,430	147	2,040	2,050	87	2,660	2,670	28
160	165	33	470	475	96	1,430	1,440	146	2,050	2,060	86	2,670	2,680	27
165	170	34	475	480	97	1,440	1,450	145	2,060	2,070	85	2,680	2,690	26
170	175	35	480	485	98	1,450	1,460	144	2,070	2,080	85	2,690	2,700	25
175	180	36	485	490	99	1,460	1,470	143	2,080	2,090	84	2,700	2,710	24
180	185	37	490	495	100	1,470	1,480	142	2,090	2,100	83	2,710	2,720	23
185	190	38	495	500	101	1,480	1,490	141	2,100	2,110	82	2,720	2,730	22
190	195	39	500	505	102	1,490	1,500	140	2,110	2,120	81	2,730	2,740	21
195	200	40	505	510	103	1,500	1,510	139	2,120	2,130	80	2,740	2,750	20
200	205	41	510	515	104	1,510	1,520	138	2,130	2,140	79	2,750	2,760	19
205	210	42	515	520	105	1,520	1,530	137	2,140	2,150	78	2,760	2,770	18
210	215	43	520	525	106	1,530	1,540	136	2,150	2,160	77	2,770	2,780	17
215	220	44	525	530	107	1,540	1,550	135	2,160	2,170	76	2,780	2,790	16
220	225	45	530	535	108	1,550	1,560	134	2,170	2,180	75	2,790	2,800	15
225	230	46	535	540	109	1,560	1,570	133	2,180	2,190	74	2,800	2,810	15
230	235	47	540	545	110	1,570	1,580	132	2,190	2,200	73	2,810	2,820	14
235	240	48	545	550	111	1,580	1,590	131	2,200	2,210	72	2,820	2,830	13
240	245	49	550	555	112	1,590	1,600	131	2,210	2,220	71	2,830	2,840	12
245	250	50	555	560	113	1,600	1,610	130	2,220	2,230	70	2,840	2,850	11
250	255	51	560	565	114	1,610	1,620	129	2,230	2,240	69	2,850	2,860	10
255	260	52	565	570	115	1,620	1,630	128	2,240	2,250	68	2,860	2,870	9
260	265	53	570	575	116	1,630	1,640	127	2,250	2,260	67	2,870	2,880	8
265	270	54	575	580	117	1,640	1,650	126	2,260	2,270	66	2,880	2,890	7
270	275	55	580	585	118	1,650	1,660	125	2,270	2,280	65	2,890	2,900	6
275	280	56	585	590	119	1,660	1,670	124	2,280	2,290	64	2,900	2,910	5
280	285	57	590	595	120	1,670	1,680	123	2,290	2,300	63	2,910	2,920	4
285	290	58	595	600	121	1,680	1,690	122	2,300	2,310	62	2,920	2,930	3
290	295	59	600	605	122	1,690	1,700	121	2,310	2,320	61	2,930	2,940	2
295	300	60	605	610	123	1,700	1,710	120	2,320	2,330	61	2,940	2,950	1
300	305	61	610	615	124	1,710	1,720	119	2,330	2,340	60	2,950	---	0
305	310	62	615	620	125	1,720	1,730	118	2,340	2,350	59			

MARRIED Without Spouse Filing Certificate

Wages— At least	But less than	Payment to be made
$0	$5	$0
5	10	1
10	15	2
15	20	3
20	25	4
25	30	5
30	35	6
35	40	7
40	45	8
45	50	9
50	55	10
55	60	11
60	65	12
65	70	13
70	75	14
75	80	15
80	85	16
85	90	17
90	95	18
95	100	19
100	105	20
105	110	21
110	115	22
115	120	23
120	125	24
125	130	26
130	135	27
135	140	28
140	145	29
145	150	30
150	155	31
155	160	32
160	165	33
165	170	34
170	175	35
175	180	36
180	185	37
185	190	38
190	195	39
195	200	40
200	205	41
205	210	42
210	215	43
215	220	44
220	225	45
225	230	46
230	235	47
235	240	48
240	245	49
245	250	50
250	255	51
255	260	52
260	265	53
265	270	54
270	275	55
275	280	56
280	285	57
285	290	58
290	295	59
295	300	60
300	305	61
305	310	62
$310	$315	$63
315	320	64
320	325	65
325	330	66
330	335	67
335	340	68
340	345	69
345	350	70
350	355	71
355	360	72
360	365	73
365	370	74
370	375	75
375	380	77
380	385	78
385	390	79
390	395	80
395	400	81
400	405	82
405	410	83
410	415	84
415	420	85
420	425	86
425	430	87
430	435	88
435	440	89
440	445	90
445	450	91
450	455	92
455	460	93
460	465	94
465	470	95
470	475	96
475	480	97
480	485	98
485	490	99
490	495	100
495	500	101
500	505	102
505	510	103
510	515	104
515	520	105
520	525	106
525	530	107
530	535	108
535	540	109
540	545	110
545	550	111
550	555	112
555	560	113
560	565	114
565	570	115
570	575	116
575	580	117
580	585	118
585	590	119
590	595	120
595	600	121
600	605	122
605	610	123
610	615	124
615	620	125
$620	$625	$126
625	630	128
630	635	129
635	640	130
640	645	131
645	650	132
650	655	133
655	660	134
660	665	135
665	670	136
670	675	137
675	680	138
680	685	139
685	690	140
690	695	141
695	700	142
700	705	143
705	710	144
710	715	145
715	720	146
720	725	147
725	730	148
730	735	149
735	740	150
740	745	151
745	1,785	152
1,785	1,795	152
1,795	1,805	151
1,805	1,815	150
1,815	1,825	149
1,825	1,835	148
1,835	1,845	147
1,845	1,855	146
1,855	1,865	145
1,865	1,875	144
1,875	1,885	143
1,885	1,895	142
1,895	1,905	141
1,905	1,915	140
1,915	1,925	139
1,925	1,935	138
1,935	1,945	137
1,945	1,955	137
1,955	1,965	136
1,965	1,975	135
1,975	1,985	134
1,985	1,995	133
1,995	2,005	132
2,005	2,015	131
2,015	2,025	130
2,025	2,035	129
2,035	2,045	128
2,045	2,055	127
2,055	2,065	126
2,065	2,075	125
2,075	2,085	124
2,085	2,095	123
2,095	2,105	122
2,105	2,115	121
2,115	2,125	120
2,125	2,135	119
2,135	2,145	118
$2,145	$2,155	$117
2,155	2,165	116
2,165	2,175	115
2,175	2,185	114
2,185	2,195	114
2,195	2,205	113
2,205	2,215	112
2,215	2,225	111
2,225	2,235	110
2,235	2,245	109
2,245	2,255	108
2,255	2,265	107
2,265	2,275	106
2,275	2,285	105
2,285	2,295	104
2,295	2,305	103
2,305	2,315	102
2,315	2,325	101
2,325	2,335	100
2,335	2,345	99
2,345	2,355	98
2,355	2,365	97
2,365	2,375	96
2,375	2,385	95
2,385	2,395	94
2,395	2,405	93
2,405	2,415	92
2,415	2,425	91
2,425	2,435	90
2,435	2,445	90
2,445	2,455	89
2,455	2,465	88
2,465	2,475	87
2,475	2,485	86
2,485	2,495	85
2,495	2,505	84
2,505	2,515	83
2,515	2,525	82
2,525	2,535	81
2,535	2,545	80
2,545	2,555	79
2,555	2,565	78
2,565	2,575	77
2,575	2,585	76
2,585	2,595	75
2,595	2,605	74
2,605	2,615	73
2,615	2,625	72
2,625	2,635	71
2,635	2,645	70
2,645	2,655	69
2,655	2,665	68
2,665	2,675	67
2,675	2,685	67
2,685	2,695	66
2,695	2,705	65
2,705	2,715	64
2,715	2,725	63
2,725	2,735	62
2,735	2,745	61
2,745	2,755	60
2,755	2,765	59
2,765	2,775	$58
2,775	2,785	57
2,785	2,795	56
2,795	2,805	55
2,805	2,815	54
2,815	2,825	53
2,825	2,835	52
2,835	2,845	51
2,845	2,855	50
2,855	2,865	49
2,865	2,875	48
2,875	2,885	47
2,885	2,895	46
2,895	2,905	45
2,905	2,915	44
2,915	2,925	44
2,925	2,935	43
2,935	2,945	42
2,945	2,955	41
2,955	2,965	40
2,965	2,975	39
2,975	2,985	38
2,985	2,995	37
2,995	3,005	36
3,005	3,015	35
3,015	3,025	34
3,025	3,035	33
3,035	3,045	32
3,045	3,055	31
3,055	3,065	30
3,065	3,075	29
3,075	3,085	28
3,085	3,095	27
3,095	3,105	26
3,105	3,115	25
3,115	3,125	24
3,125	3,135	23
3,135	3,145	22
3,145	3,155	21
3,155	3,165	21
3,165	3,175	20
3,175	3,185	19
3,185	3,195	18
3,195	3,205	17
3,205	3,215	16
3,215	3,225	15
3,225	3,235	14
3,235	3,245	13
3,245	3,255	12
3,255	3,265	11
3,265	3,275	10
3,275	3,285	9
3,285	3,295	8
3,295	3,305	7
3,305	3,315	6
3,315	3,325	5
3,325	3,335	4
3,335	3,345	3
3,345	3,355	2
3,355	3,365	1
3,365	---	0

MONTHLY Payroll Period (continued)

MARRIED With Both Spouses Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$155	$160	$32	$310	$315	$63	$1,070	$1,080	$58	$1,380	$1,390	$29
5	10	1	160	165	33	315	320	64	1,080	1,090	57	1,390	1,400	28
10	15	2	165	170	34	320	325	65	1,090	1,100	57	1,400	1,410	27
15	20	3	170	175	35	325	330	66	1,100	1,110	56	1,410	1,420	26
20	25	4	175	180	36	330	335	67	1,110	1,120	55	1,420	1,430	25
25	30	5	180	185	37	335	340	68	1,120	1,130	54	1,430	1,440	24
30	35	6	185	190	38	340	345	69	1,130	1,140	53	1,440	1,450	23
35	40	7	190	195	39	345	350	70	1,140	1,150	52	1,450	1,460	22
40	45	8	195	200	40	350	355	71	1,150	1,160	51	1,460	1,470	21
45	50	9	200	205	41	355	360	72	1,160	1,170	50	1,470	1,480	20
50	55	10	205	210	42	360	365	73	1,170	1,180	49	1,480	1,490	19
55	60	11	210	215	43	365	370	74	1,180	1,190	48	1,490	1,500	18
60	65	12	215	220	44	370	890	75	1,190	1,200	47	1,500	1,510	17
65	70	13	220	225	45	890	900	76	1,200	1,210	46	1,510	1,520	16
70	75	14	225	230	46	900	910	75	1,210	1,220	45	1,520	1,530	15
75	80	15	230	235	47	910	920	74	1,220	1,230	44	1,530	1,540	14
80	85	16	235	240	48	920	930	73	1,230	1,240	43	1,540	1,550	13
85	90	17	240	245	49	930	940	72	1,240	1,250	42	1,550	1,560	12
90	95	18	245	250	50	940	950	71	1,250	1,260	41	1,560	1,570	11
95	100	19	250	255	51	950	960	70	1,260	1,270	40	1,570	1,580	10
100	105	20	255	260	52	960	970	69	1,270	1,280	39	1,580	1,590	10
105	110	21	260	265	53	970	980	68	1,280	1,290	38	1,590	1,600	9
110	115	22	265	270	54	980	990	67	1,290	1,300	37	1,600	1,610	8
115	120	23	270	275	55	990	1,000	66	1,300	1,310	36	1,610	1,620	7
120	125	24	275	280	56	1,000	1,010	65	1,310	1,320	35	1,620	1,630	6
125	130	26	280	285	57	1,010	1,020	64	1,320	1,330	34	1,630	1,640	5
130	135	27	285	290	58	1,020	1,030	63	1,330	1,340	34	1,640	1,650	4
135	140	28	290	295	59	1,030	1,040	62	1,340	1,350	33	1,650	1,660	3
140	145	29	295	300	60	1,040	1,050	61	1,350	1,360	32	1,660	1,670	2
145	150	30	300	305	61	1,050	1,060	60	1,360	1,370	31	1,670	1,680	1
150	155	31	305	310	62	1,060	1,070	59	1,370	1,380	30	1,680	- - -	0

DAILY Payroll Period

SINGLE or HEAD OF HOUSEHOLD

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$70	$80	$5
5	10	1	80	90	4
10	15	2	90	100	4
15	20	3	100	110	3
20	25	4	110	120	2
25	30	5	120	130	1
30	60	6	130	- - -	0
60	70	6			

MARRIED Without Spouse Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$90	$100	$5
5	10	1	100	110	4
10	15	2	110	120	3
15	20	3	120	130	2
20	25	4	130	140	2
25	30	5	140	150	1
30	80	6	150	- - -	0
80	90	6			

MARRIED With Both Spouses Filing Certificate

Wages— At least	But less than	Payment to be made	Wages— At least	But less than	Payment to be made
$0	$5	$0	$50	$60	$2
5	10	1	60	70	1
10	15	2	70	- - -	0
15	40	3			
40	50	3			

Tables for Withholding Adjustment for Nonresident Aliens for Wages Paid in 2010

(To Offset Withholding Reductions for the Making Work Pay Credit)

TABLE 1—WEEKLY Payroll Period

If the wage after being increased by $39.42 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$39	$0.00	
$39	—$116	$0.00 plus 10%	—$39
$116	—$1,302	$7.70	
$1,302	—$1,687	$7.70 less 2%	—$1,302
$1,687 and over		$0.00	

TABLE 2—BIWEEKLY Payroll Period

If the wage after being increased by $78.85 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$79	$0.00	
$79	—$233	$0.00 plus 10%	—$79
$233	—$2,604	$15.40	
$2,604	—$3,373	$15.40 less 2%	—$2,604
$3,373		$0.00	

TABLE 3—SEMIMONTHLY Payroll Period

If the wage after being increased by $85.42 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$85	$0.00	
$85	—$252	$0.00 plus 10%	—$85
$252	—$2,821	$16.70	
$2,821	—$3,654	$16.70 less 2%	—$2,821
$3,654 and over		$0.00	

TABLE 4—MONTHLY Payroll Period

If the wage after being increased by $170.83 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$171	$0.00	
$171	—$504	$0.00 plus 10%	—$171
$504	—$5,642	$33.30	
$5,642	—$7,308	$33.30 less 2%	—$5,642
$7,308		$0.00	

TABLE 5—QUARTERLY Payroll Period

If the wage after being increased by $512.50 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$513	$0.00	
$513	—$1,513	$0.00 plus 10%	—$513
$1,513	—$16,925	$100.00	
$16,925	—$21,925	$100.00 less 2%	—$16,925
$21,925 and over		$0.00	

TABLE 6—SEMIANNUAL Payroll Period

If the wage after being increased by $1,025.00 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$1,025	$0.00	
$1,025	—$3,025	$0.00 plus 10%	—$1,025
$3,025	—$33,850	$200.00	
$33,850	—$43,850	$200.00 less 2%	—$33,850
$43,850		$0.00	

TABLE 7—ANNUAL Payroll Period

If the wage after being increased by $2,050.00 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$2,050	$0.00	
$2,050	—$6,050	$0.00 plus 10%	—$2,050
$6,050	—$67,700	$400.00	
$67,700	—$87,700	$400.00 less 2%	—$67,700
$87,700 and over		$0.00	

TABLE 8—DAILY or MISCELLANEOUS Payroll Period

If the wage after being increased by $7.88 and (after subtracting the value of withholding allowances) is: Over—	But not over—	The amount of income tax to withhold is:	of excess over—
$0	$8	$0.00	
$8	—$23	$0.00 plus 10%	—$8
$23	—$260	$1.50	
$260	—$337	$1.50 less 2%	—$260
$337		$0.00	

Additional Withholding for Pensions for 2010

Approximate Offset to Withholding Reductions for the Making Work Pay Credit.
To be used only in conjunction with the withholding tables found in Publication 15.

For MONTHLY Payment Period

(a) For payees using the SINGLE withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $779.00		$0
$779.00	—$1,113.00	$0.00 plus 10% of the excess over $779.00
$1,113.00	—$6,250.00	$33.40
$6,250.00	—$8,523.00	$33.40 less 2% of the excess over $6,250.00
$8,523.00		($12.06)

(b) For payees using the MARRIED withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $1,558.00		$0
$1,558.00	—$2,058.00	$0.00 plus 10% of the excess over $1,558
$2,058.00	—$8,750.00	$50.00
$8,750.00	—$11,250.00	$50.00 less 2% of the excess over $8,750.00
$11,250.00		$0.00

For SEMIMONTHLY Payment Period

(a) For payees using the SINGLE withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $390.00		$0
$390.00	—$556.00	$0.00 plus 10% of the excess over $390.00
$556.00	—$3,430.00	$16.60
$3,430.00	—$4,260.00	$16.60 less 2% of the excess over $3,430.00
$4,260.00		$0.00

(b) For payees using the MARRIED withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $779.00		$0
$779.00	—$1,029.00	$0.00 plus 10% of the excess over $779.00
$1,029.00	—$4,375.00	$25.00
$4,375.00	—$5,625.00	$25.00 less 2% of the excess over $4,375.00
$5,625.00		$0.00

For BIWEEKLY Payment Period

(a) For payees using the SINGLE withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $360.00		$0
$360.00	—$513.00	$0.00 plus 10% of the excess over $360.00
$513.00	—$2,885.00	$15.30
$2,885.00	—$3,654.00	$15.30 less 2% of the excess over $2,885.00
$3,654.00		($0.08)

(b) For payees using the MARRIED withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $719.00		$0
$719.00	—$950.00	$0.00 plus 10% of the excess over $719.00
$950.00	—$4,038.00	$23.10
$4,038.00	—$5,615.00	$23.10 less 2% of the excess over $4,038.00
$5,615.00		($8.44)

For WEEKLY Payment Period

(a) For payees using the SINGLE withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $180.00		$0
$180.00	—$257.00	$0.00 plus 10% of the excess over $180.00
$257.00	—$1,442.00	$7.70
$1,442.00	—$1,828.00	$7.70 less 2% of the excess over $1,442.00
$1,828.00		($0.02)

(b) For payees using the MARRIED withholding rate schedule—

If the pension payment (before subtracting the value of withholding allowances) is: Over—	But not over—	Then, the additional withholding amount is:
Not over $360.00		$0
$360.00	—$475.00	$0.00 plus 10% of the excess over $360.00
$475.00	—$2,019.00	$11.50
$2,019.00	—$2,599.00	$11.50 less 2% of the excess over $2,019.00
$2,599.00		($0.10)

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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