

IC 22-4-5

Chapter 5. Deductible Income Defined

IC 22-4-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.138-2008 apply to initial claims for unemployment filed for weeks that begin after March 14, 2008.

As added by P.L.220-2011, SEC.363.

IC 22-4-5-1

Definition

Sec. 1. (a) "Deductible income" wherever used in this article, means income deductible from the weekly benefit amount of an individual in any week, and shall include, but shall not be limited to, any of the following:

- (1) Remuneration for services from employing units, whether or not such remuneration is subject to contribution under this article, except as provided in subsection (c).
- (2) Dismissal pay.
- (3) Vacation pay.
- (4) Pay for idle time.
- (5) Holiday pay.
- (6) Sick pay.
- (7) Traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual.
- (8) Net earnings from self-employment.
- (9) Payments in lieu of compensation for services.
- (10) Awards by the national labor relations board of additional pay, back pay, or for loss of employment, or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board.
- (11) Payments made to an individual by an employing unit pursuant to the terms of the Fair Labor Standards Act (Federal Wage and Hour Law, 29 U.S.C. 201 et seq.).
- (12) This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011. For a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure.
- (13) This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011. Except as provided in subsection (c)(2), the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week and the week:
 - (A) occurs after an individual receives the payment; and
 - (B) was used under the terms of a written agreement to

compute the payment.

(b) Deductible income shall not include the first three dollars (\$3), or twenty percent (20%) of the claimant's weekly benefit amount rounded to the next lowest dollar, whichever is the larger, of remuneration paid or payable to an individual with respect to any week by other than the individual's base period employer or employers.

(c) For the purpose of deductible income only, remuneration for services from employing units does not include:

(1) bonuses, gifts, or prizes awarded to an employee by an employing unit; or

(2) for initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011, compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement.

(d) Deductible income does not include a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement.

(e) Deductible income does not include any payments made to an individual by a court system under a summons for jury service.

(Formerly: Acts 1947, c.208, s.501; Acts 1953, c.177, s.10; Acts 1957, c.299, s.16; Acts 1967, c.310, s.7.) As amended by P.L.227-1983, SEC.2; P.L.20-1986, SEC.3; P.L.138-2008, SEC.2; P.L.110-2010, SEC.24; P.L.2-2011, SEC.5.

IC 22-4-5-2

Specific items deductible

Sec. 2. (a) Payments in lieu of a vacation awarded to an employee by an employing unit shall be considered as deductible income in and with respect to the week in which the same is actually paid. The payment of accrued vacation pay, dismissal pay, or severance pay to an individual separated from employment by an employing unit shall be allocated to the period of time for which such payment is made immediately following the date of separation, and an individual receiving such payments shall not be deemed unemployed with respect to a week during which such allocated deductible income equals or exceeds the weekly benefit amount of his claim. Pay for idle time; sick pay; traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual; earnings from self-employment; awards by the National Labor Relations Board of additional pay, back pay, or for loss of employment; or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board; and payments to an employee by an employing unit made pursuant to the terms and provisions of the Fair Labor Standards Act shall be deemed to constitute deductible income with respect to the week or weeks for which such payments are made. However, if such payments made pursuant to the provisions of the National Labor

Relations Act or of the Fair Labor Standards Act or through agreement with a union are not, by the terms of the order or agreement under which said payments are made, allocated to any designated week or weeks, then, and in such cases, such payments shall be considered as deductible income in and with respect to the week in which the same is actually paid.

(b) Holiday pay which is paid not later than the normal pay day for the pay period in which the holiday occurred shall be deemed to constitute deductible income with respect to the week for which such payments are made. Holiday pay which is paid after the normal pay day for the pay period in which the holiday occurred shall be considered as deductible income in and with respect to the week in which the same is actually paid.

(c) Payment of vacation pay, if made prior to the vacation period or not later than the normal pay day for the pay period in which the vacation was taken, shall be deemed deductible income with respect to the week or weeks falling within such vacation period for which vacation payment is made. Payment of vacation pay made subsequent to the normal pay day for the pay period in which the vacation was taken shall be deemed deductible income with respect to the week in which such payment is made.

(Formerly: Acts 1947, c.208, s.502; Acts 1953, c.177, s.11; Acts 1967, c.310, s.8; Acts 1971, P.L.355, SEC.10.) As amended by Acts 1981, P.L.209, SEC.4; P.L.20-1986, SEC.4.

IC 22-4-5-3

Work week specified in contract; conditions for use

Sec. 3. (a) This section applies for purposes of deductible income only.

(b) If:

- (1) an employee and an employing unit have agreed in a labor contract, that is negotiated on or before May 10, 1987, and any renewals thereafter of such contract, to establish a work week that is a different term of seven (7) days than the calendar week;
- (2) the employing unit has filed a written notice with the division on a form prescribed by the division stating that a work week other than the calendar week has been established under the labor contract between the employing unit and its employees; and
- (3) the notice has been filed with the division before an employee working on the contractual work week files a claim for unemployment compensation benefits;

the work week specified in the contract may be used for purposes of this chapter.

As added by P.L.241-1987, SEC.2.