

Audit Tips: Understanding Remuneration

As we all know, Workers' Compensation Insurance premium is primarily based on total payroll for each respective Class Code (Job Function). The word "payroll" is often used when describing this rating basis; however it may be more than just the traditional paycheck that an Auditor may want to review.

According to the New York Compensation Insurance Rating Board (NYCIRB), Premium shall be computed on the basis of total remuneration paid by the insured for the services of employees covered by the policy.

As you can see for that statement, the word "payroll" is not mentioned. It is "total remuneration" that must be identified to determine the appropriate premium.

What does "Remuneration" mean?

Remuneration is defined as money or substitutes for money. It is a very broad definition, however NYCIRB does go into additional detail in describing what is and isn't considered remuneration. Let's review a few of the most common questions regarding what is considered remuneration.

Overtime Pay

It is important for the employer to keep track of exactly how much of an employee's pay is overtime (time and a half or double time) for workers' compensation purposes. Pay for overtime is credited back to what the straight time pay would be for premium audit purposes. Example: An employee receives \$5,000 in time and a half overtime pay over the policy period. The auditor should deduct 1/3 of this pay to determine how much of the overtime pay that is ratable. In this example, \$3,333 of the overtime pay would be ratable. For overtime paid as double time, 1/2 of the payroll is ratable for WC purposes.

Vacation and Sick Time Pay

The general rule of thumb for included remuneration is pay that is "earned" by the employee. Typically an employee is given credit toward vacation and sick pay each pay period that accrues overtime. Any payout for this time "earned", whether during employment or at retirement is considered remuneration and ratable for WC premium.

Pay for Employees Out on Workers' Compensation or Disability

In preparation for a WC audit, an employer should breakout any pay in the policy period to employees while they were out on WC, as long as the policyholder is required under law or union contract to pay full salary for employees while they are out on a workers' compensation injury. This would exclude pay for vacation or sick time accrued. Many municipalities, schools and other public employers may have policies that certain employees out on Workers' Compensation or Disability will still receive full salary for a designated period of time.

In the case of Police or Paid Firefighters, public entities are required to pay full salary to these individuals

under General Municipal Law. Be sure to make note of the wages paid to these individuals for the auditor as these wages should NOT

be considered ratable as long as the employees are not performing any work for the employer while out on WC or disability.



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Severance or Early Retirement Pay

Lump sum payments made to employees at the termination of their employment or retirement based on their years of employment is general considered excluded and NOT ratable for WC premium purposes. This does not include pay for accrued vacation or sick time.

Retroactive Pay

Many times for employers with union employees, there comes times when new contracts are finalized after they have expired and back pay or retroactive pay needs to be made to those employees. Retroactive pay is ratable for WC in the policy year in which it is paid, even if that pay is for a previous policy period that has already expired. It is important to understand and budget for the WC premium adjustments that will result from retroactive payments.

The following is a complete list of included and excluded examples of remuneration from the 2008 Edition of the NYCIRB Workers' Compensation and Employers Liability Manual (Rule V, Part B).

Remuneration includes:

- a. Wages or salaries including retroactive wages or salaries;
- b. Total cash received by employees for commissions and draws against commissions;
- c. Bonuses including stock bonus plans;
- d. Extra pay for overtime work except as provided in Rule V.E.;
- e. Pay for holidays, vacations or periods of sickness. Refer to Rule IV.E.2. for allocation of payroll for employees subject to more than one classification code;

- f. Payment by an employer of amounts otherwise required by law to be paid by employees to statutory insurance or pension plans, such as the Federal Social Security Act;
- g. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans;
- h. Payment or allowance for hand tools or power tools used by hand provided by employees either directly or through a third party and used in their work or operations for the insured;
- i. The rental value of an apartment or a house provided for an employee based on comparable accommodations;
- j. The value of lodging, other than an apartment or house, received by employees as part of their pay, to the extent shown in the insured's records;
- k. The value of meals received by employees as part of their pay to the extent shown in the insured's records;
- l. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.
- m. Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125) which are made through employee authorized salary deductions from the employee's gross pay;



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- n. Wages paid to employees as salary in conjunction with the Davis-Bacon Act or other prevailing wage laws;
- o. Annuity plans;
- p. Expense reimbursements to employees to the extent that an employer's records do not substantiate that the expense was incurred as a valid business expense;

Remuneration excludes:

- a. Wages or salaries including retroactive wages or salaries;
- b. Payments by an employer to group insurance or group pension plans for employees, other than payments covered by Rule V.B.2.f. and Rule V.B.2.m.;
- c. The value of special rewards for individual invention or discovery;
- d. Dismissal or severance payments except for time worked or accrued vacation;
- e. Reimbursed expenses and allowances paid to employees shall be excluded, provided all three of the following conditions are met:
 - (1) The expenses or allowances were incurred in the course of the employer's business;
 - (2) The amounts are shown separately for each employee in the employer's records;
 - (3) The amount of each expense reimbursement or allowance payment approximates the actual expenses incurred;
- f. Payments for active military duty;
- g. Employee discounts on goods purchased from the employee's employer;
- h. Supper money for late work;
- i. Work uniform allowances;
- j. Sick pay paid to an employee by a third party such as an insured's group insurance carrier

- which is paying disability income benefits to a disabled employee;
- k. Employer provided perquisites ("perks") such as the following:
 - (1) An automobile;
 - (2) An airplane flight;
 - (3) An incentive vacation (e.g., contest winner);
 - (4) A discount on property or services;
 - (5) Club memberships;
 - (6) Tickets to entertainment events.
- l. Employer contributions to salary reduction, employee savings plans, retirement, or cafeteria plan (IRC 125)-Contributions made by the employer, at the employer's expense, that are determined by the amount contributed by the employee.

