

December 20, 2005

Economic Development Tax Incentives -- Rate of Pay. THE RATE OF PAY FOR DETERMINING INCREASES IN EMPLOYMENT UNDER THE NEBRASKA ADVANTAGE ACT WILL BE BASED ON BASE PAY FOR REGULAR HOURS WORKED AND NOT ON TAXABLE COMPENSATION.

Advice has been requested as to how to calculate the rate of pay for an employee for purposes of determining the number of new employees under the Nebraska Advantage Act.

Section 77-5707, R.S.Supp. 2005, provides in part that:

Compensation means the wages and other payments subject to withholding for federal income tax purposes.

Section 77-5714, R.S.Supp. 2005, provides in part that:

Number of new employees means the number of equivalent employees. . . not to exceed the number of equivalent employees employed at the project during a year who are not base-year employees and who are paid wages at a rate equal to at least sixty percent of the Nebraska average weekly wage . . .

Under the Nebraska Advantage Act, only those employees who are paid wages at a rate above a certain level are counted for determining the number of new employees. The determination of the rate of pay must be completed for each employee at the project who is not a base-year employee.

While the definition of compensation includes both wages and other payments subject to withholding, the calculation required in the definition of number of new employees only refers to wages and does not include other payments or require that the wages are subject to withholding.

Therefore, the amount that will be included in the determination of wages for the number of new employees will be base pay for regular hours worked. The base pay is not reduced for deductions, such as participation in benefits plans, and will not include any payments for overtime, bonuses or similar payments, or the value of benefits provided by the employer.

The hours worked by employees whose base pay is in excess of sixty percent of the Nebraska average weekly wage are included in determining the number of new employees. For an employee who has a change in his or her base pay during the year, the hours worked during the time the base pay is above the required level will be counted.

The base pay is a separate amount from both the amount of compensation received by an employee and the average wage of new employees. All three numbers are required to be calculated in order to determine benefits under the Nebraska Advantage Act.

APPROVED:



Mary Jane Egr  
State Tax Commissioner

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