

**ATTENTION!! Please Distribute To All Staff Responsible For Processing Prevailing Wage Fringe Benefit Contributions**

**PRE-TAX – EMPLOYEE CONTRIBUTIONS – EMPLOYER CONTRIBUTIONS**  
**WHAT DOES IT ALL MEAN?**

*Proper accounting for employee fringe benefits set forth in California's Department of Labor Statistics & Research (DLSR) Determination Letters.*

It has come to the attention of ABC's training staff that many of its contractor-members may be accounting for the payment of required fringe benefits improperly, thus unnecessarily increasing payroll tax and workers' compensation expenses. The question commonly posed by the contractor's payroll administrator is "are the fringe benefit payments pre-tax?" The following explanation applies equally to journeymen and apprentices.

A close reading of a typical DLSR wage determination for any trade indicates that the Health & Welfare, Pension, Vacation/Holiday, Training, and Other Payment amounts are all listed under the heading **Employer Payments**. And that is exactly what they are. Controllers and payroll administrators must understand the difference between **Employee Payments** and **Employer Payments**. Employee payments are deductions from gross pay consisting of items such as withheld social security and withheld Medicare taxes. These items are based upon the employee's wages and are deducted from his/her gross wages. Employer payments, e.g. those required by the determination letters, are amounts that employers are required to pay on behalf of their tradesmen for each hour worked. These amounts must be paid in addition to the base hourly wage but are not a deduction from the wage. The best example of this type of expense is workers' compensation insurance paid for each hour the employee works. These additional expenses are in addition to amounts paid to the employee, but based on the employee's hours worked.

What appears straightforward becomes problematic when employers apply the prevailing wage "rules" to their accounting and payroll systems. Since payroll systems differ, some will have to be set up differently than others. Also, some contractors do not provide fringe benefits and thus pay the entire required amount, the **Total Hourly Rate**, to the employee, and some provide only some of the fringes described. There are many different possibilities; however, here are some general guidelines one can follow:

- The amount shown in the wage determination for "Training" **MUST** be paid to an approved training trust fund or the California Apprenticeship Council (CAC). If you are approved to train apprentices with ABC, you are required, through your contract with ABC, to pay ABC Training amount per hour (or the amount in the prevailing wage determination, whichever is greater) for apprentice hours worked on public works jobs and ABC Training amount per hour for apprentice hours worked on private or Federal jobs. The journeyman training amount is that listed in the prevailing wage determination being used for the project. These amounts paid for training are **NOT** to be included in the employee's wage and then deducted. They are merely paid to the appropriate training trust on behalf of the employee for each hour he or she worked. Accordingly, such amounts are not considered wages subject to payroll taxes or workers' compensation.

- If the contractor has no fringe benefit programs for its employees, the correct amount to pay the employee is the *Total Hourly Rate* shown in the determination letter less the amount paid to the training trust or CAC.. This will be the amount subject to payroll taxes and workers' compensation expense.
- Amounts shown in a wage determination for Health and Welfare, Pension, Vacation/Holiday, and Other Payments do not have to be paid at the explicit amount indicated, but only in total. (There are, however, annual limits on the amount that can be contributed to retirement plans – this should be reviewed with your company's retirement plan administrator). Again, the total amount paid to or for an employee must be at least the *Total Hourly Rate* less the *Training* contribution.
- If the contractor pays for its employees' portion of their health insurance, the contractor may use this amount, on an annualized per hour basis, along with the *Training* contribution, to reduce the amount paid to the employee on his or her check. The same concept applies to amounts paid into a retirement plan for the employee.
- In order to use the above amounts to reduce the amounts paid to the employee on his check, the payments for health insurance, retirement, etc. must be paid contemporaneously (early in the month subsequent to the payment of wages) with the wages paid.
- Any amounts paid to a retirement plan are 100% vested when paid. There is no vesting period allowed for **ANY** benefits paid pursuant to a determination letter on public works projects.
- The contractor's payment of the above noted fringes (health, retirement) in lieu of payment of the entire prevailing wage in cash, reduces the payroll base subject to payroll taxes and workers' compensation expense.

To summarize, the question “when do we deduct pre-tax money?” is actually the wrong question. The question should be, “how much do I have to pay the employee on his check (subject to all income and payroll taxes) depending on how much I pay toward his benefits on an hourly basis?”

If you have further questions on this topic, please contact your representative at the Associated Builders and Contractors at (925) 474-1300 or the author of this article.

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