

# Definition of Wages

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## Withholding Fact Sheet 9

Fact Sheet

This fact sheet explains Minnesota income tax withholding responsibilities as they relate to classification of wages, employees, and exceptions. If you need additional information, see “Information and Assistance” on page 2.

### Taxable Wages

Minnesota follows the federal provisions for determining taxable wages.

Wages subject to federal and Minnesota income tax withholding include all pay given to an employee for services performed. The pay may be in cash or in other forms, and it does not matter how you measure or make the payments.

The more common types of taxable wages include:

- Wages paid in money (cash, check, or electronically deposited into a bank account)
- Wages not paid in money (goods, lodging, food, clothing, or services)
- Tips
- Supplemental wages (vacation pay, overtime pay, severance pay, back pay, bonuses, commissions, accumulated sick leave, awards, prizes, nondeductible moving expenses, etc.)
- Payments made for idle time
- Employer paid sick pay
- Certain fringe benefits
- Nonaccountable employee business expense reimbursements. Payments are considered nonaccountable if:
  - The employee is not required to or does not substantiate expenses
  - you advance an amount and the employee is not required to or does not return any amount not used for business expenses

For more information, refer to the following federal publications:

- Pub. 15, *(Circular E) Employer's Tax Guide*
- Pub. 15-A, *Employer's Supplemental Tax Guide*
- Pub. 15-B, *Employer's Tax Guide to Fringe Benefits*
- Pub. 51, *(Circular A) Agricultural Employer's Tax Guide*
- Pub. 535, *Business Expenses*

### Who is an Employee?

An employee is anyone you pay to perform services for your business and you control or direct how, when, or where the work will be done. Your spouse, children, other family members, friends, students, household workers, and agricultural help are considered employees if you pay them to work for you.

Income Tax and Withholding Division  
Phone: 651-282-9999 or 1-800-657-3594  
E-mail: withholding.tax@state.mn.us

An officer performing services for a corporation is also considered an employee. For additional information see Withholding Fact Sheet 8, *Independent Contractor or Employee*.

### Household Workers

Household workers are employees if you control not only what household work is done, but also how it is done. It does not matter if the work is full-time or part-time, or if the worker was hired through an agency. It also does not matter if the worker is paid by the job or on an hourly, daily, or weekly basis.

“Household work” means work done in or around your home by babysitters, nannies, health aides, private nurses, maids, caretakers, yard workers, and similar domestic workers.

### Agricultural Workers

If you employ agricultural workers who work in Minnesota or who are Minnesota residents, and you are required to withhold federal income tax from the employees' wages, you are also required to withhold Minnesota income tax.

### Corporate Officers

Corporate officers who provide services for a corporation (whether an S corporation or C corporation) are considered employees of the corporation. As with any other employee, the officer should be paid a reasonable wage for services performed. A reasonable wage is an amount you would expect to pay someone else to provide services similar to those provided by the officer. You must withhold Minnesota income tax from any compensation given to officers including cash, goods, or services in exchange for working.

Examples of goods include novelty items, clothing, items from your inventory, reductions in tuition at educational institutions, etc. Examples of services include accounting, cleaning, remodeling, repair work, etc.

Wages must be paid to corporate officers separately from any payments of dividends and/or distributions. Any loans between an officer and a corporation should be well documented and bear interest. There must be a valid debtor-creditor relationship. Contact the Internal Revenue Service (IRS) at 1-800-829-1040 for guidance on interest rates for loans.

### Withholding Income Tax from Wages

Most employers are responsible for withholding federal and Minnesota income tax from employees' wages for any work done in Minnesota. The federal tax is deposited with the Internal Revenue Service (IRS) and the Minnesota tax is deposited with the Minnesota Department of Revenue.

*Continued*

This fact sheet is intended to help you become more familiar with Minnesota tax laws and your rights and responsibilities under the laws. Nothing in this fact sheet supersedes, alters, or otherwise changes any provisions of the tax law, administrative rules, court decisions, or revenue notices. Alternative formats available upon request.

Minnesota follows the federal withholding tax provisions. If you employ anyone who works in Minnesota or is a Minnesota resident, and you are required to withhold federal income taxes, in most cases you are also required to withhold Minnesota income tax. Likewise, if you are not required to withhold federal income tax from the employee's wages, in most cases you are not required to withhold Minnesota income tax.

#### Exceptions to the federal rules on wage withholding:

- **Employees Who are Residents of Michigan or North Dakota**  
Minnesota has income tax reciprocity agreements with Michigan and North Dakota. Generally, under these agreements, only the home state will tax personal service income earned by the resident while working in a reciprocity state. If an employee who is a resident of Michigan or North Dakota gives you a completed Form MWR, *Reciprocity Exemption/Affidavit of Residency*, you are not required to withhold Minnesota income tax from his or her wages. It is your responsibility as an employer to submit the completed form to the Department of Revenue. For additional information, see Withholding Fact Sheet 20, *Reciprocity — Employee Withholding*.

- **Employees Who are Residents of Another State**  
You are not required to withhold Minnesota income tax if the amount you expect to pay the nonresident employee is less than the minimum income requirement for filing a Minnesota individual income tax return. For 2018, this amount is \$10,650.

*Note:* Wages earned while a taxpayer was a resident, but received when the taxpayer was a nonresident, are assignable to Minnesota and are subject to Minnesota withholding tax. For details, see Withholding Fact Sheet 19, *Nonresident Wage Income Assigned to Minnesota*.

- **Overtime, Commissions, Bonuses, and Other Supplemental Payments**  
Supplemental payments made to an employee separately from regular wages are subject to 6.25 percent (.0625) Minnesota withholding regardless of the number of withholding allowances the employee claimed.

- **Interstate Carrier Companies**  
If you operate an interstate carrier company and have an employee who regularly performs assigned duties in more than one state, withhold state income tax for the employee's state of residence only.

- **Interstate Air Carrier Companies**  
If you operate an interstate air carrier company and have an employee who performs regularly assigned duties on aircraft in more than one state, withholding is required for the employee's state of residence as well as any state in which more than 50 percent of the employee's compensation is earned.

For more information, see the *Minnesota Income Tax Withholding Instruction Booklet*.

## Other Types of Withholding (Unrelated to Employee Wages)

- **Pensions and Annuities**  
You cannot withhold Minnesota income tax from pensions and annuities unless the recipient asks you to and you agree. If you agree, follow the same rules for withholding on wages.

However, use federal Form W-4P instead of Form W-4, and issue pension and annuity recipients a Form 1099-R instead of Form W-2.

- **Surety Deposits**  
If you contract with a non-Minnesota construction contractor to perform construction work in Minnesota, you must withhold 8 percent (.08) of payments when the value of the contract exceeds \$50,000. For details, see Withholding Fact Sheet 12, *Surety Deposits for Non-Minnesota Construction Contractors*.
- **Royalty Payments**  
The payer of mining and exploration royalties is required to withhold income tax on royalty payments made for use of Minnesota land. The withholding rate is 6.25 percent (.0625) of the royalties paid during the year.
- **Nonresident Entertainer Tax**  
Compensation paid to nonresident entertainers for performances is not subject to regular Minnesota income tax. Instead, there is a 2 percent (.02) nonresident entertainer tax on the gross compensation. For details, see Withholding Fact Sheet 11, *Nonresident Entertainer Tax*.
- **Withholding Affidavits for Construction Contractors (IC134)**  
In order to receive final payment from a project performed for the state of Minnesota or any of its political subdivisions, a construction contractor must file a Withholding Affidavit for Contractors when work on the project has been completed. For details, see Withholding Fact Sheet 13, *Construction Contracts with State or Local Government Agencies*.

## Register for Withholding Tax

Before you start withholding tax from your employees' wages, you must have a Minnesota tax ID number and registered for withholding tax. You may be assessed a \$100 penalty if you fail to do so.

If you are a new employer, see Withholding Fact Sheet 10, *New Employer Guide*, for important information. If you need a Minnesota tax ID number, apply online at [www.revenue.state.mn.us](http://www.revenue.state.mn.us) or by calling our Business Registration Office at 651-282-5225 or 1-800-657-3605.

If you already have a Minnesota tax ID number for other taxes for the same business, you can use the same number for withholding tax. To update your account, go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and log in to e-Services.

## Information and Assistance

### Minnesota Department of Revenue

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us)

Email: [withholding.tax@state.mn.us](mailto:withholding.tax@state.mn.us)

Phone: 651-282-9999 or 1-800-657-3594

This information is available in alternate formats.

### Internal Revenue Service

Website: [www.irs.gov](http://www.irs.gov) Phone: 1-800-829-4933