VACATIONABLE EARNINGS BY JURISDICTION

The following table provides general information about selected issues concerning payroll legislative and compliance issues and/or employment and taxation laws. It is not legal advice and should not be relied upon as a substitute for review of your specific situation with legal counsel. Every effort has been made to provide accurate information; however, we advise you to seek legal counsel and advice (from a qualified lawyer) regarding your specific situation. Legal obligations will vary according to the facts and circumstances, as well as the jurisdiction.

The purpose of the Vacationable Earnings by Jurisdiction table is to provide the earnings used to calculate vacation pay. The minimum requirement of Employment/Labour Standards in all jurisdictions is vacation pay be calculated as a percentage (a fraction in Saskatchewan) of gross vacationable earnings. An organization's company policy, union collective agreement or the terms of an employment contract shall prevail when providing a greater right or benefit than the minimum Employment/Labour Standards requirement.

Legend

CLC = *Canada Labour Code, Part III* | Y = Included | N = Not included

EARNING TYPE	CLC	AB	BC	MB	NB	NL	NT/NU	NS	ON	PE	QC	SK	YK
Regular salary/earnings													
Regular salary	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Call-in pay	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Overtime	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Retroactive pay	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Shift premium	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Standby pay	Y	N	N	N	*	N	N	Y	Y	Y	Y	Y	N
Statutory holiday pay	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
Vacation pay													
Paid when time is taken	Y	Y	Y	N	N	Y	Y[13]	N	N	N	Y	Y	N
Paid when no time is taken (e.g.: upon termination)	N	N	N	N	N	N	Y[13]	N	N	N	Y	Y[15]	N
Paid every pay period	Y	N	N	N	N	N	Y[13]	N	N	N	Y	Y	N
Allowances													
Car	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Clothing	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Housing	N[7]	N	N	N	N	N	N	N	Y	N	Y[10]	N	N
Meal	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Moving	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Tool	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Travel	N[7]	N	N	N	N	N	N	N	N	N	Y[10]	N	N

EARNING TYPE	CLC	AB	BC	MB	NB	NL	NT/NU	NS	ON	PE	QC	SK	YK
Bonuses													
Discretionary	N	N	N	N	N	N	N	N	N	N	N	N	N
Work Related	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Commissions													
Earned at employer’s premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y[8]	Y	Y	Y
Earned away from employer's premises	Y	N	Y	Y	Y	Y	Y	N	N	Y[8]	Y	Y	Y
Earned by a route salesperson	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y[8]	Y	Y	Y
Directors’ Fees													
Employee	N	N	N	N	N[3]	N	*	N	N	N	Y	N	N
Non-employee	N	N	N	N	N[3]	N	*	N	N	N	Y	N	N
Legislated Leaves**													
Bereavement Leave	Y	N	N	N	N	N	N	N	N	Y	Y	N	N
Citizenship Leave	Y	N	N	N	N	N	N	N	N	N	N	N	N
Domestic and Sexual Violence Leave	Y	N	Y	Y	N	N	N	N	Y	N	Y	N	N
Jury Duty	N	N	N	N	N	N	N	N	N	N	N	N	N
Maternity and Parental Leave	N	N	N	N	N	N	N	N	N	N	N[16]	N	N
Paternity Leave	N	N	N	N	N	N	N	N	N	N	Y	N	N
Personal Emergency Leave	Y	N	N	N	N	N	N	N	N	N	Y	N	N
Organ donor leave	N	N	N	N	N	N	N	N	N	N	N	N	N
Sick Leave	Y	N	Y[12]	N	N	N	N	N	N	Y	Y	N	N
Voting Leave	Y	N	N	N	N	N	N	N	Y	N	Y	Y	N
Wedding Leave	Y	N	N	N	N	N	N	N	N	N	Y	N	N
Miscellaneous earnings													
Maternity leave top-ups	N	N	N	N	N	N	N	N	N	N	Y	N	N
Profit sharing payments	Y[2]	N[1]	N	N[1]	N	N	Y	N	Y[5]	N	Y	Y	N
Tips (employer-controlled)	N	N	N	Y	N	N	N	N	N	N	Y	N	N
Termination payments													
Retiring Allowance (lump-sum)	N	N	N	N	N	N	N	N	N	N	N	N	Y[7]
Retiring Allowance (installments)	N	N	N	N	N	N	N	N	N	N	N	N	Y[7]
Pay in lieu of notice (as required by Employment/labour standards)	N	N	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y
Salary Continuance	N	N	N[11]	Y	N[11]	N	N[11]	N	N[11]	N[11]	Y	N[11]	N[11]

EARNING TYPE	CLC	AB	BC	MB	NB	NL	NT/ NU	NS	ON	PE	QC	SK	YK
Taxable benefits													
Awards/Gifts (in-kind)	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Board and Lodging	N	N	N	Y	N	N	N	Y[4]	Y	Y[14]	Y[10]	Y	N
Company owned/leased vehicle	Y	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Group term life insurance	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Group RRSP plan payments	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Interest free loans	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Parking	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N
Provincial medical	n/a	N	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Stock options	N	N	N	N	N	N	N	N	N	N	Y[10]	N	N

[*] Not clearly addressed in legislation.

[**] Only as required by Employment/Labour Standards.

[1] Unless tied to hours of work, production or efficiency.

[2] If included in wages or remuneration for work.

[3] Included where fee is a "wage" (condition of employment). Excluded where fee is an honoraria.

[4] Determined on a case by case basis.

[5] Excluded if part of DPSP.

[6] If amount is taxable.

[7] Included in unique circumstances.

[8] Majority earned must be salary.

[9] Housing and meal included if part of employment contract in Ontario.

[10] All taxable benefits and allowances defined in Section 1, paragraph 9 of the Quebec Labour Standards Act would be classified as vacationable under certain conditions. Employers should contact Quebec Labour Standards (CNESST) in order to obtain additional information.

[11] Not vacationable with the exception of the portion of the salary continuance that represents pay in lieu of notice as required per Employment/Labour Standards.

[12] Gratuitous/benefit payments are not vacationable. Illness or injury leave (first five paid days) is vacationable

[13] Only in Nunavut. Vacation pay, however paid, is not vacationable in the Northwest Territories.

[14] Boarding and lodging paid in cash to the employee (living out allowance) is not vacationable. Boarding and lodging provided by the employer for working in a remote area is vacationable.

[15] Vacation pay that an employee receives at the time of resignation or termination is not vacationable.

[16] First two paid days is vacationable.

Important Note:

More information on vacations and vacation pay can be obtained in our publication
Your Payroll Vacations Questions Answered, FOURTH EDITION