

Payroll Information for Construction Employers

Proper payroll reporting

BWC bases premiums on wages and exposure to hazard. Therefore, it is critical that you report wages within the manual classification in which your employees performed the work. Job orders and hourly segregation (timesheets or job logs) showing labor costs can help you create worksheets to track the reporting of your payroll. Keep these worksheets in the event of an audit. If you do not separate these wages, you must report them to the highest-rated classification assigned.

Salary caps

We provide a salary cap for construction employees. Employees reportable to construction manuals are eligible for exemption of weekly wages greater than 150 percent of the statewide average weekly wage. You must deduct section 125 cafeteria plan deductions *before* you calculate the salary cap.

Also, you must aggregate bonuses over the period for which employees earned them. You should add these monies to the reportable wage for each week. The total is subject to the weekly construction cap. This could necessitate amending previously submitted payroll reports.

It is imperative to keep weekly worksheets and payroll records calculating this excess by week per employee and classification. In the absence of these weekly records, you can only take advantage of the cap on the whole payroll reporting basis.

If an employee's wages are reportable to more than one construction manual, we allocate the construction cap to each classification based on the percent of time worked in that classification for the week.

The weekly construction cap does not affect officers of the corporation or owners with elective coverage since the weekly officer cap is the same as the weekly construction cap.

You can find the maximum weekly caps and eligible classifications for the current calendar year online at <https://www.bwc.ohio.gov/employer/services/paidcomp/paidcomp.asp#construction>.

Types of employees

Casual labor

We consider individuals who perform work outside a business' normal operation such as lawn care, janitorial work, etc., who do not work for another company or hold themselves out to the public as performing these services, casual labor.

- Remuneration/payments to these individuals are reportable to the governing classification.

Spot labor

We consider individuals who perform work within a business' normal operation as spot labor. For example, a plumber needs short-term help with a job. He finds someone to help and pays the helper cash. The person works within the business' normal operation.

- Remuneration/payments to these individuals are reportable to the governing classification.

1099s

Use of independent contractors is common in the construction industry. They usually receive a 1099 instead of a W-2. Employers do not pay payroll taxes on these workers.

Questions frequently arise that require a determination of the legal status of a particular worker as an employee or an independent contractor. We consider an independent contractor to be an employer (and therefore, not an employee) when he or she controls the means and methods of the work, such as but not limited to:

- Work hours;
- Work processes and procedures;
- Furnishing the material and goods.

Just because an employer issues a 1099 does not always mean we consider the worker an independent contractor. We use a totality of the circumstances test to determine if someone is an independent contractor. *An Independent Contractor Questionnaire* (UA-2) is available on our website.

A primary contractor may be liable for claims filed by employees of sub-contractors when the sub-contractor fails to provide workers' compensation coverage for its employees.

We recommend written contracts. We also advise that primary contractors obtain a copy of and maintain subcontractors' workers' compensation certificates of coverage, liability insurance and invoices, and/or bids for the services provided.

Construction or erection estimator

Manual classification 5605 applies only to employees of construction, erection or rigging operations who estimate the cost of jobs outside of an office environment with exposure to field hazards on potential or prospective job sites. Additionally, we classify salespersons that take measurements at potential job sites, commercial or residential, as estimators. Manual 5605 is not available for division of a single employee's payroll with any other classification. This includes clerical (8810), sales (8742) or construction superintendent (5606).

Contractor – project manager, executive supervisor or construction superintendent

We also allow employers to report project managers, executive supervisors and construction superintendents of construction businesses to a separate classification if he or she meets certain conditions. This classification applies to those that spend time in the office and visit various active job sites conferring with a job superintendent or job foreman. These visits are usually to check progress at each job site or project. To qualify for code 5606, this person must:

- Not perform any construction work;
- Exercise supervision through job-site supervisor or foreman;
- Not have direct charge over the workers at the site.

Manual 5606 is not available for division of a single employee's payroll with any other classification, including clerical (8810), sales (8742) or estimator/bidder (5605). Those employees that engage in both estimating and construction superintendent duties are reportable to the 5606 classification.

Questions?

Visit www.bwc.ohio.gov, contact your local customer service office, or call 1-800-644-6292.