

Public Notice: Rates for board and room, meals and lodging furnished by employers.

See: 35 N.J.R. 3967(b).

Public Notice: Rates for board and room, meals and lodging furnished by employers.

See: 37 N.J.R. 3463(b).

Public Notice: Rates for board and room, meals and lodging furnished by employers.

See: 38 N.J.R. 3681(b).

Public Notice: Rates for board and room, meals and lodging furnished by employers.

See: 40 N.J.R. 220(b).

#### 12:16-4.9 Tips and gratuities

If a worker receives gratuities and/or tips regularly in the course of employment from other than the employer, the gratuities and/or tips so received, if reported in writing to the employer, shall be considered taxable. The entire amount of charge tips are covered wages and are taxable to the maximum base even though the employee has not reported the entire amount to the employer. If the employee omits reporting tips, but the employer considers tips as part of an hourly rate for meeting the requirements of a Federal or State minimum wage law, it is considered that, in effect, tips have been reported to the employer to that extent and are therefore included as taxable wages.

Amended by R.1995 d.138, effective March 6, 1995.

See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

#### 12:16-4.10 Temporary disability payments

(a) Payments made to employees under an approved Private Plan shall be considered as taxable remuneration, if payments are for a period of seven or less consecutive days following the date of disability.

(b) Payments made for periods after the seventh consecutive day following the date of disability shall not be considered as taxable.

(c) If the period of disability extends to the twenty-second day of disability and payment is made for the twenty-second day, then the first seven days, referred to in (a) above would not be considered taxable.

New Rule, R.1986 d.21, effective February 3, 1986.

See: 17 N.J.R. 2850(b), 18 N.J.R. 284(b).

#### 12:16-4.11 Family leave insurance benefits payments

(a) Family leave insurance benefits payments made to employees under an approved private plan shall be considered taxable remuneration if the payments are for a period of seven or less consecutive days following the first day that the individual establishes a claim.

(b) Family leave insurance benefits payments made for periods after the seventh consecutive day following the first day that the individual establishes a claim shall not be considered taxable remuneration.

(c) Family leave insurance benefits payments made for seven or less consecutive days following the first day that the individual establishes a claim referred to in (a) above would not be considered taxable remuneration when:

1. The period during which family leave insurance benefits have been paid extends to 22 consecutive days, or

2. The claimant is eligible for at least one day of family leave insurance benefits in three separate weeks subsequent to the week in which the claim for family leave insurance benefits was established.

New Rule, R.2009 d.20, effective January 5, 2009.

See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).

Former N.J.A.C. 12:16-4.11, Personal use of a company vehicle, recodified to N.J.A.C. 12:16-4.12.

#### 12:16-4.12 Personal use of a company vehicle

(a) The personal use of a company vehicle shall be taxable remuneration.

1. Such personal use shall be valued pursuant to Section 61 of the Internal Revenue Code.

(b) If personal use is present (except for de minimis usage such as a lunch stop during company business), and such personal use has not been properly reported, the personal use shall be valued at the highest manner available.

New Rule, R.1990 d.217, effective April 16, 1990.

See: 22 N.J.R. 603(b), 22 N.J.R. 1269(a).

Recodified from N.J.A.C. 12:16-4.11 by R.2009 d.20, effective January 5, 2009.

See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).

Former N.J.A.C. 12:16-4.12, Dependent care assistance programs, recodified to N.J.A.C. 12:16-4.13.

#### 12:16-4.13 Dependent care assistance programs

(a) Employer contributions on behalf of, or reimbursements to, an employee under a Dependent Care Assistance Program (Section 129 of the Internal Revenue Code) shall be taxable remuneration.

(b) If a Dependent Care Assistance Program is financed by an employee voluntary salary reduction, the amount of remuneration received under the program shall be determined as that amount which the employee could have elected to receive in lieu of making the contribution.

New Rule, R.1990 d.217, effective April 16, 1990.

See: 22 N.J.R. 603(b), 22 N.J.R. 1269(a).

Recodified from N.J.A.C. 12:16-4.12 by R.2009 d.20, effective January 5, 2009.

See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).

Former N.J.A.C. 12:16-4.13, Interest on a below-market interest rate loan, recodified to N.J.A.C. 12:16-4.14.

#### 12:16-4.14 Interest on a below-market interest rate loan

The amount of remuneration generated by a below-market interest rate loan shall be the same amount as that computed for purposes of F.U.T.A.

New Rule, R.1990 d.217, effective April 16, 1990.  
 See: 22 N.J.R. 603(b), 22 N.J.R. 1269(a).  
 Recodified from N.J.A.C. 12:16-4.13 by R.2009 d.20, effective January 5, 2009.  
 See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).  
 Former N.J.A.C. 12:16-4.14, Section 125 cafeteria plans, recodified to N.J.A.C. 12:16-4.15.

#### 12:16-4.15 Section 125 cafeteria plans

Employer contributions to a cafeteria plan arrangement pursuant to Section 125 of the Internal Revenue Code shall be taxable remuneration to the extent that the employee could have elected to receive cash in lieu of the employer's making the contribution.

New Rule, R.1990 d.217, effective April 16, 1990.  
 See: 22 N.J.R. 603(b), 22 N.J.R. 1269(a).  
 Amended by R.1995 d.138, effective March 6, 1995.  
 See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).  
 Recodified from N.J.A.C. 12:16-4.14 by R.2009 d.20, effective January 5, 2009.  
 See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).  
 Former N.J.A.C. 12:16-4.15, Stock options, recodified to N.J.A.C. 12:16-4.16.

#### 12:16-4.16 Stock options

(a) The value of a stock option is taxable remuneration at the time the option is exercised when the individual exercising the option is a current employee. The value of the stock option is also taxable remuneration when exercised after separation from employment but during the same calendar year in which the separation occurred.

(b) The value of a stock option is not taxable remuneration when exercised by a former employee in a calendar year following the calendar year in which the separation occurred.

(c) A wholly owned subsidiary company is the employer responsible for contribution payments when an employee of the subsidiary company exercises stock options of the parent corporation.

New Rule, R.2005 d.108, effective April 4, 2005.  
 See: 36 N.J.R. 5651(a), 37 N.J.R. 1030(a).  
 Recodified from N.J.A.C. 12:16-4.15 by R.2009 d.20, effective January 5, 2009.  
 See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).  
 Former N.J.A.C. 12:16-4.16, Deferred payments, recodified to N.J.A.C. 12:16-4.17.

#### 12:16-4.17 Deferred payments

Deferred payment of remuneration for services accrued by an employer that is not included as part of a qualified pension, profit sharing or stock option plans or another pension arrangement where a trust is created is taxable remuneration at the time payment is made.

New Rule, R.2005 d.108, effective April 4, 2005.  
 See: 36 N.J.R. 5651(a), 37 N.J.R. 1030(a).  
 Recodified from N.J.A.C. 12:16-4.16 by R.2009 d.20, effective January 5, 2009.  
 See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).  
 Former N.J.A.C. 12:16-4.17, Co-employed individuals, employee leasing clients, recodified to N.J.A.C. 12:16-4.18.

#### 12:16-4.18 Co-employed individuals, employee leasing clients

A client company is the employer responsible for contribution payments when remuneration for services is paid directly by the client company to workers co-employed under an employee leasing agreement.

New Rule, R.2005 d.108, effective April 4, 2005.  
 See: 36 N.J.R. 5651(a), 37 N.J.R. 1030(a).  
 Recodified from N.J.A.C. 12:16-4.17 by R.2009 d.20, effective January 5, 2009.  
 See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).

### SUBCHAPTER 5. CONTRIBUTIONS BY EMPLOYERS

#### 12:16-5.1 Accrual as remuneration earned

(a) Employer's contributions shall accrue as remuneration is earned by workers in covered employment, but will not become due until payment or payment in kind is actually or constructively made.

(b) Payment of employers' contributions shall be made as prescribed within this chapter.

Amended by R.1995 d.138, effective March 6, 1995.  
 See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

#### Cross References

Unemployment benefits, partial benefits, records in addition to those required under this section, see N.J.A.C. 12:17-4.1.

#### Case Notes

Hirees treated as employees for employment contributions if they lack independent business status. *Regency Real Estate Appraisal, Inc. v. Department of Labor*, 97 N.J.A.R.2d (LBR) 21.

Service station owner was ordered to pay unemployment compensation contributions on wages paid to mechanic who performed automobile repairs at service station. *Carroll t/a Carroll Service v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 108.

Tile setters were contractors' employees, despite fact that tile setters considered themselves to be independent contractors and that it was industry practice to treat them as such, and thus contractors would be required to pay unemployment compensation and temporary disability benefit contribution arrearages. *Dandorf and Pezzano v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 105.

Attorney who received percentage of fees generated by other attorneys sharing office was liable for unemployment compensation benefits insurance contributions on wages of other attorneys. *Logan v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 102.

Engineer working out of his car was liable for unemployment compensation benefits insurance contributions for typist and draftsman that he occasionally employed. *Green v. Department of Labor*, 96 N.J.A.R.2d (LBR) 89.

Travel agency was required to pay unemployment compensation insurance tax for agents who booked travel arrangements out of central office. *Another World of Travel v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 87.