

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

INACTIVE

REGULATIONS GOVERNING DEDUCTIONS FROM WAGES REVISED

Revised regulations governing the determination of the reasonable cost of board, lodging, or other facilities for which deductions may be made from wages under the Fair Labor Standards Act were issued today by Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, United States Department of Labor. The law provides, in Section 3(m) that the wage paid to any employee "includes the reasonable cost, as determined by the administrator, to the employer of furnishing such employee with board, lodging, or other facilities if such board, lodging, or other facilities are customarily furnished by such employer to his employees." The regulation revised today, which is Part 531 of the Code of Federal Regulations, provides standards and methods for determining such reasonable cost. (Federal Register, September 12, 1940.)

The changes were made to clarify the language of the present regulations which have already been approved by the courts. A practical basis is provided for arriving at the rate of depreciation and the cost of operating and maintaining buildings and other equipment used in furnishing board or lodging to employees. A similar basis is provided for calculating the "reasonable cost" of other facilities. The regulations provide for the calculation of "reasonable cost" upon the basis of the cost of operation and maintenance including depreciation and a reasonable allowance (not to exceed 5½ per cent) for interest on the depreciated amount of capital invested by the employer. To make this calculation clearer, depreciation is defined to embrace all the elements -- including obsolescence -- usually included in depreciation under good accounting practices. Accounting practices which are not acceptable to the Bureau of Internal Revenue for income tax purposes will not be considered "good accounting practices" by the Wage and Hour Division.

The regulations further provide that the rate of depreciation should be "adequate".

Under the regulations as announced the "reasonable cost" of housing facilities can not exceed the "fair rental value" of such housing. It is similarly provided that the reasonable cost of commodities or facilities offered for sale may not exceed the "fair price" of such commodities or facilities.

In announcing these regulations, Colonel Fleming stated: "Ordinarily every type of building, machinery, or equipment will depreciate since all structure erected by human hands wear out sooner or later. In order that such structures may not be over-valued despite their 'irresistible march to the junk heap', it is necessary that reasonable and adequate depreciation be deducted from the original cost or the amount originally invested in such structures used to furnish employees with board, lodging, or other facilities. In order to arrive at an accurate cost figure, depreciation which is deducted must adequately reflect the declining value of the investment. That is why the regulations require an 'adequate' rate of depreciation. While the adequacy of the depreciation charge will depend upon the circumstances in each individual case, the Division will endeavor to enforce a reasonable minimum depreciation rate. We are not prepared to accept any depreciation rate which is based on an estimated depreciation period of more than fifty years for timber structures or more than one hundred years for masonry unless persuasive reasons to the contrary are sustained. Of course where obsolescence or other functional changes occur, the depreciation rate will inevitably be increased."

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