

810-3-72-.01. Included and Excluded Wages.

(1) Class exemptions from Alabama withholding are the same as those under Federal law. The chief classes of employees exempt from withholding are agricultural, domestic and merchant seamen. Alabama will not follow the federal requirement to withhold income tax on cash payments made after 1989 to agricultural employees where the payments are considered wages for social security purposes and FICA withholding is required.

(2) If an employee's earnings are partly from exempt work and partly from work subject to withholding, tax should be withheld either from all or from none of his earnings. Tax should be withheld from all of his earnings if one-half or more of his time is spent in nonexempt work; there should be no withholding if over one-half of his time is spent in exempt work.

(3) Where an employer establishes a deferred compensation plan under I.R.C. §§ 401(k)(2) or 403(b), the amounts properly deferred are not wages for withholding tax purposes.

(4) Amounts paid to or on behalf of an employee as reimbursement for moving expenses incurred relative to a new job location in Alabama, or advance payments of such expenses, are not wages for withholding tax purposes to the extent that there is reason to believe that the employee will have a corresponding deduction under §40-18-15(a)(19).

(5) Amounts paid to or on behalf of an employee for traveling or other bona fide ordinary and necessary expenses incurred, or advance payments of such expenses, to the extent that there is reason to believe that the employee will have a corresponding deduction under §40-18-15(a)(1).

(6) For tax years or periods beginning after December 31, 1990 - Where an employer participates in a cafeteria plan as described in I.R.C. §125, contributions made by an employer on behalf of an employee are not included in the employee's gross income and therefore are not subject to Alabama withholding tax.

(7) For tax years or periods beginning after December 31, 1990 - Where an employer incurs dependent care expenses on behalf of an employee, such amount is excluded from wages as defined in I.R.C. §129.

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