

Salary Continuance, Termination Pay, Severance Pay and Retiring Allowances

October 2009

This publication is provided as a guide only. It is not intended as a substitute for the *Employer Health Tax Act* and Regulations.

An amount received by an employee upon termination of employment can be either employment income or a retiring allowance under the federal *Income Tax Act* (ITA).

The following information will help to determine if an amount received by an employee is subject to Employer Health Tax (EHT).

Salary continuance

If upon termination an individual receives periodic payments and remains entitled to benefits available only to employees, for example, long term disability, or the individual continues to accrue pensionable service or continuation in the group RRSP plan, the payments are considered a salary continuance. Salary continuance is remuneration under the federal ITA and is subject to EHT.

Termination pay

An employee who does not get the statutorily required written notice must get termination pay instead. An amount paid at the time of termination in lieu of notice is remuneration that is subject to EHT.

Severance pay

Severance pay is an amount paid based on length of service that is payable to an employee upon termination of employment. Severance pay is considered retiring allowance under the federal ITA and is not subject to EHT.

Retiring allowances

A retiring allowance is paid at the discretion of the employer. This payment may also be referred to as severance.

The meaning of retiring allowance includes any amounts paid to an employee who is leaving as compensation for loss of office or employment, or relating to a court award or settlement for wrongful dismissal, or in recognition of long service. Therefore, retiring allowance is not considered income from an office or employment under the ITA and is not subject to EHT.

Retirement or loss of employment does not include the following:

- transfer from one office or position to another with the same employer
- termination with an employer then re-employment with an affiliate
- termination of employment due to death.

There may be situations where periodic payments following an individual's loss of office or employment could represent instalment of a retiring allowance. However, periodic payments will not be considered a retiring allowance if the payments are treated as income from employment for the purpose of computing employment insurance premiums and benefits, Canada Pension Plan pension accruals or eligible years of service under a registered pension plan. These payments are considered a salary continuance and are subject to EHT.

Items such as bonuses, commission payments, accumulated overtime, and unused vacation credits are ordinary income and do not qualify as a retiring allowance. Therefore, these items are taxable for EHT purposes.

A payment relating to unused sick leave credits qualifies as a retiring allowance and is not subject to EHT.

**Written
interpretations**

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Revenue
Tax Advisory Services Branch
Income Tax Related Programs Section
Employer Health Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

**Related
publications**

Other publications which provide further details on this topic include:

Remuneration

More information

To obtain the most current version of this publication, or additional information, visit our website at ontario.ca/revenue and enter 2803 in the find page field at the bottom of the webpage or contact the Ministry of Revenue at:

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