**Section 2730.150 Payments Under A Cafeteria Plan**

Payments which are not taxable for federal income tax purposes as part of a cafeteria plan established under Section 125 of the Internal Revenue Code of 1986 are not included in "wages", as defined in Section 234 of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 344), to the extent that (1) the benefit chosen under the plan is specifically excluded under Section 235 of the Act (Ill. Rev. Stat, 1989, ch. 48, par. 345) and (2) under Section 245(C) of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 370(C)) the benefit is not includable in the term "wages" subject to the payment of taxes under the Federal Unemployment Tax Act (FUTA).

a) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of medical insurance premiums which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are not includable as wages because there is a specific exclusion in Section 235 of the Act for payments on account of medical or hospitalization expenses in connection with sickness or accident disability and such payments are not subject to the payment of taxes under FUTA.

b) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of life insurance premiums which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are not includable as wages because there is a specific exclusion in Section 235 of the Act for payments on account of death and such payments are not subject to the payment of taxes under FUTA.

c) Example: Payments made under a plan established by an employer generally for individuals in its employ to provide for the payment of dependent care assistance which would not be includable in gross income for federal income tax purposes under Section 125 of the Internal Revenue Code of 1986 are includable as wages because there is no specific exclusion in Section 235 of the Act for payments on account of dependent care assistance even though they are not subject to the payment of taxes under FUTA.

(Source: Added at 15 Ill. Reg. 16964, effective November 12, 1991)