**Section 2920.30 Payments Made in Connection with Separation or Layoff as, or in the Nature of Vacation Pay, Vacation Pay Allowance or as Pay in Lieu of Vacation**

a) In situations other than those described in Section 2920.25, amounts that an employer pays, becomes obligated to pay, or holds itself ready to pay the individual as, or in the nature of vacation pay, or vacation pay allowance, or as pay in lieu of vacation shall be treated as wages provided that all of the following conditions are satisfied:

1) The amounts are paid or payable "in connection with" the separation or layoff of the individual. Amounts are paid or payable "in connection with" the separation or layoff of the individual for the purposes of this Section whenever there is a relationship between such payments and the separation or layoff. Evidence of a relationship is provided by the employer's pay plan or by the labor-management agreement.

A) EXAMPLE: The individual is entitled to receive two weeks of vacation pay on the anniversary date of employment that occurs on June 1. The employer is required to make payment for that date. The individual along with other employees is laid off for an indefinite period beginning June 1. The individual files for benefits for the week beginning on June 1 and the employer files a timely protest contending under Section 610(B) of the Act that its liability to pay the individual's two weeks of vacation pay renders the individual ineligible to receive benefits with respect to that two week period. The individual is not ineligible to receive benefits under this subsection because the employer's liability to make those vacation payments is not "in connection with" the layoff. No relationship exists between the employer's liability to make vacation payments and the individual's layoff. The connection that does exist is purely fortuitous.

B) EXAMPLE: Under the terms of the labor-management agreement, the individual is entitled to receive two weeks of vacation pay on June 1. The labor-management agreement also provides that in the event of any layoff or separation, that occurs prior to June 1, the employer's liability for accrued vacation pay shall be accelerated to the period immediately subsequent to the effective date of the individual's layoff or separation. The individual, along with other employees, is laid off for an indefinite period beginning May 15. If the protest is timely, the individual is ineligible to receive benefits under this subsection with respect to the two week period beginning May 15, because the employer's liability to make vacation allowance payments is "in connection with" the individual's layoff. The labor-management agreement regarding the acceleration of vacation payments is conditioned upon the individual's layoff or separation. The occurrence of the layoff on May 15 fulfills this condition. Accordingly, a connection exists between the employer's liability to make accelerated vacation payments and the layoff of the individual, a connection that is not merely fortuitous, unlike the situation described in the EXAMPLE in subsection (a)(1)(A).

2) Within 10 calendar days after the date the notice of the filing of an individual's claim for benefits is mailed or within 10 calendar days after the date vacation pay is paid or payable, the employer notifies the Director by returning the Notice of Claim form (ADJ030F) or submitting a letter in lieu thereof which:

A) Designates the period for which the payments shall be allocated; and,

B) Specifies the amount of vacation pay allocated to the designated period.

EXAMPLE: The individual is laid off on June 1. Under the employer's pay plan, the individual receives hisvacation pay two weeks after his last day of work. The notice of the filing of the individual's claim for benefits is mailed on June 4. The individual's vacation pay is received June 15. The employer files an ADJ030F on June 20. Although the ADJ030F was not filed within 10 calendar days after the mailing of the notice of the individual's claim for benefits, it is still timely under this subsection (a)(2) because it was filed within 10 calendar days after the date the individual's vacation pay was paid.

3) There must be a reasonable relationship between the period of vacation designated by the employer and the amount of vacation pay allocated to that period. The relationship shall be considered reasonable if:

A) The period designated by the employer immediately follows the last day worked by the individual;

B) The period designated by the employer immediately follows the date of the individual's claim for benefits;

C) It is usual and customary as a matter of company policy for the vacation payments to accrue during the period designated, even when the period does not immediately follow the last day worked; or

D) The allocation of vacation payments to the period designated is pursuant to a collective bargaining agreement with the employer.

b) Amounts that an employer pays, becomes obligated to pay, or holds itself ready to pay the individual as, or in the nature of vacation pay, or vacation pay allowance, or as pay in lieu of vacation which constitute wages under subsection (a) shall be treated as wages in sums equal to the individual's wages for a normal workday. The amounts treated as wages under this Section shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in that period, except paid holidays, until the amount so paid or owing is exhausted. An employer's allocation of those amounts in a manner different from that set forth in this subsection shall be ineffective. If an individual is entitled to receive and does receive pay for a holiday for any work day in that period designated by the employer under subsection (a)(2), the period shall be extended by the paid holiday.

c) If the employer fails to comply with the conditions set forth in subsection (a), amounts paid or payable to an employee during a period of vacation shall not be treated as wages with respect to any week after the separation or layoff unless these payments shall satisfy the requirements for vacation pay during shutdown for inventory or vacation purposes treated as wages under Section 2920.25.

(Source: Amended at 43 Ill. Reg. 6563, effective May 14, 2019)