

Wage and Hour Division, Labor

§ 547.1

(2) Accrued leave has been exhausted; or
(3) The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART 547—REQUIREMENTS OF A “BONA FIDE THRIFT OR SAVINGS PLAN”

Sec.

547.0 Scope and effect of part.

547.1 Essential requirements for qualifications.

547.2 Disqualifying provisions.

547.3 Petition for amendment of regulations in this part.

AUTHORITY: Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207.

SOURCE: 19 FR 4864, Aug. 3, 1954, unless otherwise noted.

§ 547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a “bona fide thrift or savings plan” under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (hereinafter called the Act). In determining the total remuneration for employment which section 7(e) of the Act requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing profit-sharing payments to employees, or with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of

the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations. Part 549, or the tests set forth in Interpretative Bulletin, part 778 of this chapter, §§ 778.214 and 778.215, as the case may be.

§ 547.1 Essential requirements for qualifications.

(a) A “bona fide thrift or savings plan” for the purpose of section 7(e)(3)(b) of the Act is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees' *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total