[How to Make Payments of Vacation Pay]

The 4 methods you can use to ensure employees receive their required vacation pay.

In the Canadian workplace, vacations aren't just a source of leisure but employment income. That's because employment standards laws require employers to provide employees vacation pay. Failure to provide the right amount of vacation pay is a common source of grievances and disputes. So, it's crucial to ensure that your organization's vacation pay calculations are being done accurately, regardless of whether you outsource your payroll or do it in-house.

The Basic Vacation Pay Rule

Although rules vary slightly, in all jurisdictions vacation pay is calculated as a fixed percentage of vacationable earnings paid during the vacation entitlement year.

The 4 Key Definitions

The rule sounds straightforward but there are 4 tricky technical definitions you must understand to apply it:

- **Vacation (aka annual vacation/paid vacation/vacation leave):** Actual time away from work;
- **Vacation pay:** Pay owed to employees under their right to vacations;
- **Vacation entitlement years:** The 12-month periods employees typically must work to earn the right to each successive vacation; and
- **Vacationable earnings:** The earnings on which vacation pay is based.

The percentage of vacationable earnings on which vacation pay is based typically varies depending on the length of employment, or related length of the annual vacation. **Example:** Where an employer grants 3 weeks' vacation to employees upon completing 3 vacation entitlement years, vacationable earnings are paid at 6%, which would be termed the "vacation percentage."

The 4 Payment Methods

Although there are many different methods employers can use to make payments of vacation pay required by the applicable employment standards law, 4 methods are the most common.

Method 1: Paying Vacation Pay on Each Paycheque

This method is an attractive option because it's the simplest to administer. All that's required is calculation and payment of vacation pay each pay period. There's no accrual or tracking of vacation time or dollars required, other than what must be shown as the current vacation pay on employee direct deposit statements or payroll cheques.

Legal Restrictions: Unfortunately, only 6 provinces allow employers to use this method—and even those provinces limit use of the method to particular circumstances. The provinces whose employment standards laws allow for paying vacation pay on each paycheque include:

Jurisdiction	**Required Circumstance**
Alberta	At employer's discretion
British Columbia	With employee's agreement
Manitoba	At employer's discretion
New Brunswick	At employer's discretion
Ontario	With employee's agreement
Québec	If: • Method is provided in collective agreement • Employees are paid on a daily basis

Method 2: Accruing Vacation Entitlements in Time

Under this method, employees accrue units of vacation time as they work. For example, at the start of each vacation entitlement year, the employer may simply credit employees with the vacation time they're due under their employment contract. Or, employers might accrue one vacation day per month to a maximum of 10 per year for an entitlement of 2 weeks' annual vacation. Under such arrangements, employees don't accrue vacationable earnings themselves; they're paid at the rate of pay current when any subsequent vacation time is taken.

Legal Restrictions: Employers may use this method as long as the current pay for any vacation time taken is at least equal to the applicable vacation pay required. (See the discussion under Method 4 below.)

Method 3: Accruing Vacation Entitlements in Dollars

The most common method of paying vacation pay is to accrue dollars, not time. There are 2 approaches:

- Dollar Accrual Method 1: Base vacationable earnings accrue during each vacation entitlement year. After completion of each year, the vacation percentage is applied to the total vacationable earnings accrued in that year. The result is the vacation pay required for that vacation entitlement year.
- Dollar Accrual Method 2: The more common method is to apply the vacation percentage to each pay period's vacationable earnings with the resulting vacation pay accrued during the entitlement year itself.

Although the different dollar accruals appear to be similar, there's a key difference between them, namely, the point when the vacation percentage is applied. With Method 1, the percentage is applied at the completion of the vacation entitlement year; with Method 2, it's applied during the year. This difference can become significant when the employment standards vacation pay requirements change after the end of a vacation entitlement year.

Example: Lucy, whose employment is subject to federal regulation under the *Canada Labour Code*, was hired on March 12, 2017. That's the date her employer uses to mark the start of each new vacation entitlement year. After March 11, 2022, Linda will have completed 5 years of continuous employment and thus be entitled to 3 weeks' vacation time for the March 12, 2021 to March 11, 2022, vacation entitlement year. Her employer must pay her vacationable earnings for that year at a minimum of 6%. Her total vacationable earnings for the vacation entitlement year: $45,135.87. At 6%, Lucy must be paid at least $2,708.15 in vacation pay.

Jack started the same day as Lucy for the same employer and has the same vacationable earnings in the vacation entitlement year starting March 12, 2021. However, Josh quits effective March 10, 2021. When he gets his final pay, Jack's entitled to vacation pay only at 4%, since he hasn't completed 5 consecutive employment years with the employer. Jack's employer accrues the vacation pay owing from each pay period, not the vacationable earnings themselves. In anticipation of paying Jack vacation pay at 6%, the employer had been accruing his vacation pay on earnings paid on or after March 12, 2021, at 6%. To calculate Jack's final pay, the employer manually re-adds his vacationable earnings since that date and manually calculates the vacation pay owing to Jack at 4%. On $45,135.87, at 4%, this is $1,805.43. This is the minimum amount that Jack must be paid for vacation pay under federal employment standards.

Legal Restrictions: The jurisdictions below require employers to increase the percentage used to calculate employees' vacation pay from 4% to 6% after employees complete the following number of continuous vacation entitlement years:

- 3 years: QC;
- 5 years: AB;
- 5 years: Fed (increases to 8% after 10 years), BC, MB, ON, NT, NU;
- 7 years: NS;
- 8 years: NB, PE;
- 9 years: SK (5.77% for first 9 years, 7.69% starting in year 10); and
- 15 years: NL.

In Alberta, employees paid by the month must be paid for each week of vacation at their monthly salary divided by 4 x 1/3; employees with less than 4 years employment are entitled to be paid as vacation pay their monthly salary divided by 4 1/3 x 2; employees with 5 years of completed employment or more are entitled to vacation pay of their monthly salary divided by 4 1/3 x 3.

In Saskatchewan, the vacation percentage is given as weeks of vacation time over 52, the base vacation time entitlement is 3 weeks, which rises to 4 weeks after completion of 10 vacation entitlement years.

Example: Ryan, whose employment is covered by SK employment standards, has worked without interruption for the same company since April 18, 2012. He's entitled to 4 weeks' vacation time for the vacation entitlement year ending April 17, 2022. For that vacation time, Ryan must be paid 4/52 of his earnings in the vacation entitlement year ending on April 17, 2022. Assuming that these vacationable earnings were $37,956.21, his vacation pay would have to be at least 4/52 of these earnings, or $2,919.71. Note this is a lower number than would be calculated at 8%, since the fraction 8/100 is higher than 4/52, or its equivalent 8/104. At 8%, Ryan would be entitled to vacation pay of $3,036.50 on the same vacationable earnings.

Method 4: Paying Regular Wages or Salary for Vacation Time Taken

Some employers use this method because it seems to be simple: Employees receive their regular wages or salary when on vacation, particularly when that vacation time is taken in less than whole work weeks. The problem with using this method is that it may yield a vacation amount that doesn’t comply with the vacation pay employees are entitled to under the employment standards law.

Example: Megan was hired by her BC employer on February 4, 2020, and under BC employments standards law is entitled to 2 weeks’ annual vacation, payable at 4% of the vacationable earnings in the previous vacation entitlement year. To calculate vacation pay, her employer uses the anniversary of hire to mark the start of each employee’s vacation entitlement year. In the 12 months ending February 3, 2022,it paid Megan the following vacationable earnings:

- Base salary, $53,500;
- Sales commissions: $26,245.13; and
- Vacation pay: $2,940.15.

Her vacationable earnings thus total $82,685.28. Megan took the 2 weeks from August 7, to August 20, 2021, as her vacation for the vacation entitlement year ending on February 3, 2022. During those 2 weeks, her employer continued Megan’s then current bi-weekly base salary, $3,000. However, 4% of her vacationable earnings is $3,307.41. Result: Her employer didn’t pay Megan all of the vacation pay to which she’s entitled.