Payroll Quiz

QUESTION

Can employers give paid time off instead of overtime pay?

A. No, employers cannot give paid time off to employees instead of overtime pay.
B. Yes, employees are entitled to take paid time off instead of taking overtime paid if the employee has worked full time for 3 years with the business.
C. Yes, an employee and an employer can make an agreement in writing that the employee will receive paid time off (PTO) instead of overtime pay when they work extra hours. This is referred to as “time off in lieu” or “banked time”. If an employee has agreed to bank their overtime hours, they must be compensated at the rate of time and a half (1.5 hours) of PTO for each hour of overtime worked. Typically, paid time off must be taken within three months of the week in which the overtime was earned.

ANSWER

C

WHY IS IT RIGHT

PAYROLL

Payroll is an essential function of any business. As an employer, it’s your job to make sure your workers are compensated. From tracking hours worked to paying your workers, your responsibilities can be overwhelming. That’s where payroll systems come into play.

Payroll, at its most basic, is the process by which an employer pays an employee for work performed. If you own your own business, but don’t have any employees, then you don’t have to worry about payroll. But as soon as you hire your first worker, you have a responsibility to pay that employee on time and the correct amount.

Canadian payroll regulations call for employers to pay employees on a regular basis, whether weekly, bi-weekly, semi-monthly, monthly or annually. As in most countries, every paycheck should clearly account for any wages, overtime, holiday, severance, or bereavement pay.

Minimum wages are set at the provincial level and can change often. For example, the minimum wage in Quebec will increase by 50 cents per hour on May 1, 2017, then increase another 50 cents per hour on May 1, 2018, with staggered increases every year following.

For those companies governed by regulations at the federal level, overtime is federally enforced at 1.5 times an employee's regular rate. Fines for not complying with Canada's tricky overtime laws can be expensive: KPMG once paid an estimated $10 million to settle a suit with its employees. Federal law also mandates the observation of nine national public holidays, though each province or territory may observe additional holidays.

If employers fail in their payroll duties, their workers will be less motivated to fulfill their end of the bargain. They'll be less productive and suffer from low morale. And if you make a mistake on an employee's paycheck enough times, they will probably quit.

From the worker's perspective, payroll seems like a simple task. But there's more to it than just signing a check and delivering it to your desk. An employer must make sure that the proper taxes are withheld from each paycheck and that those funds are paid to the right government agency at the right time. Complicated tax forms must be filled out and filed on an annually, quarterly, sometimes even weekly basis. Missed deadlines and improper tax filings can result in steep fines and even jail time.

Payroll duties can be a real burden on a small business owner. Instead of focusing on product development, customer service and other important business tasks, the boss is stuck in the back with a calculator and a stack of forms. That's why all businesses, and especially small businesses without their own accountants, need a reliable, effective and easy-to-use payroll system.

It's possible to handle payroll responsibilities with a pen, ledger sheet and calculator, but nowadays most business owners use either an outsourced payroll service or computerized payroll software.

A payroll system involves everything that has to do with the payment of employees and the filing of employment taxes. This includes keeping track of hours, calculating wages, withholding taxes and other deductions, printing and delivering checks and paying employment taxes to the government.

WHY IS EVERYTHING ELSE WRONG

Payroll Departments must deal with and administer a host of protocols and procedures in their work that impact employers and employees in many ways.

Employee entitlement to vacation pay?

Paid time off from work is a benefit enjoyed by employees in Canada, legislated by employment standards in all jurisdictions. This legislation allows for both vacation time and vacation pay. The purpose of vacation time is to provide each employee a minimum of two weeks' time off work, whereas vacation pay ensures continuity of remuneration throughout the vacation period.

Vacation time is earned over a 12-month period, commonly referred to as the vacation entitlement year. This vacation entitlement year can be the calendar year, a company-established year, or the employee's anniversary (seniority) date. Depending on the jurisdiction, vacation time must be taken within 4 to 12 months of it being earned. It is the employer's responsibility to ensure that the legislated vacation time is taken, and as such, with adequate notice, the employer has the right to schedule vacation time for employees. In addition, many jurisdictions allow for the fractioning of vacation time. Time may be taken as a single two-week period, two one-week periods, or broken down into one-day increments in some jurisdictions, such as Ontario, with written consent from both the employee and employer. Generally, employees cannot forego their right to the minimum legislated vacation time, nor can they ask to be paid in lieu of vacation time.

Vacation pay, on the other hand, accrues as a percentage of vacationable earnings in the vacation entitlement year. These vacationable earnings vary by jurisdiction. Rather than being paid regular wages, an employee will receive vacation pay when taking vacation time. At the end of the year, an employee who has taken their full vacation time entitlement should have exhausted their vacation pay accrual. However, since some jurisdictions include additional earnings paid throughout the entitlement year as vacationable earnings (for example, overtime pay and a work related bonus), an employee may have accrued more vacation pay than they have been paid for at their regular rate of pay. This type of situation reinforces the need for a reconciliation of vacation pay owed versus vacation actually paid. Any and all outstanding balances must be paid to the employees affected within the legislated timeframe of the jurisdiction in question.

Such reconciliation should also be performed upon termination of an employee. Any unused vacation pay accrued must be paid to the terminated employee. An employer may allow employees to take vacation time prior to it being earned. Such a policy creates the possibility of vacation overpayment, particularly in the event of an employee terminating employment with the company after having taken more vacation time than has been earned. Although some jurisdictions allow for deductions from an employee’s pay for vacation overpayments, including vacation advances, it is considered a good standard of practice to get the employee’s authorization for such deductions in writing.

Bonus tax method

The bonus tax method is used for calculating taxes, along with CPP and EI deductions, on bonuses, retroactive payments, and other payment outliers. Calculating bonus tax varies in ease and difficulty level.

Tax implications of paying an employee in cryptocurrencies

Since cryptocurrencies are managed by advanced computer algorithms and not by a central bank, digital currencies such as Bitcoin, Dash, and Ethereum are not considered legal currencies by the CRA. However, they are still taxable. Employers and employees are advised to keep track of the equivalent Canadian dollar value of the cryptocurrency upon the initial exchange of the cryptocurrency.

Reporting payroll remittances to the CRA

You will need to send remittances to the CRA according to their submission schedule. The deadlines vary depending on your average monthly withholding amount. Penalties will incur for missed deadlines.

Taxable benefits subject to EI and CPP deductions

Yes. If an employer provides a taxable benefit to an employee, the employer must calculate the value of the benefit, calculate the proper payroll deductions for the taxable benefit, and file an information return.

Additionally, bonuses, incentives, awards, and gifts are also considered taxable earnings and unless stated otherwise, are subject to CPP, EI, and tax deductions. If paid in kind, the value is subject to CPP and taxes but not E.I.

Differences between an employee and independent contractor

In a perfect world, the “employee” would do his/her job and be paid accordingly. In many instances the person themselves would undoubtedly not want to be taxed and most definitely would want to keep more money in his/her paycheck. However, if that person was to be laid off or fired, most likely that person would want to go after unemployment compensation. This is one area where problems would arise, because as a subcontractor no unemployment was ever paid on their behalf! Furthermore, this will raise an unwanted inquiry for the employer as to the working relationship with IRS and/or state tax authorities.

Generally, employees are viewed as workers who are “employed” whereas independent contractors are viewed as workers who are “self-employed.” The law treats employees and independent contractors differently. Employees are usually entitled to certain rights by their employers while independent contractors, being self-employed, are not guaranteed such rights by the people they work for. It is not always easy to establish which category an individual falls into. **In cases of dispute, courts will determine the appropriate category by examining a number of factors. Some factors will be considered more important than others. Examples of relevant factors are:**

- who is providing the tools for the job;
- the level of skill required for the job;
- who controls the work and the work product;
- whether the hired party must provide oral/written progress reports;
- whether the job is performed on the business premises;
- the duration of the relationship between the parties;
- the ability to delegate or sub-contact the job of the hired party;
- whether the hired party has discretion over how long and when they work;
- whether any insurance or benefits are provided to the hired party;
- whether the hired party’s expenses are reimbursed;
- whether the hired party can realize a profit or loss;
- whether the work is part of the regular business of the hiring party;
- whether the parties have a written agreement defining the status of hired party;
- the method of payment; and
- the way the hired party is treated by taxing authorities