

Social Security Administration

§ 404.1056

- (1) Domestic service in the private home of the employer; or
- (2) Agricultural labor.

[55 FR 7310, Mar. 1, 1990]

§ 404.1055 Payments for agricultural labor.

(a) *When cash payments are not wages.* We do not include as wages your cash payments in a calendar year after 1987 from an employer for agricultural labor (see § 404.1056) if your employer's total expenditures for agricultural labor are less than \$2500 in that year and your employer paid you less than \$150 cash remuneration in that year for your agricultural labor.

(b) *Exclusions for noncash payments and payments for seasonal agricultural labor.* (1) Noncash payments for agricultural labor are not wages.

(2) Your cash payments in a calendar year from an employer for agricultural labor are not wages, irrespective of your employer's total annual expenditures for agricultural labor, if you are a hand harvest laborer (*i.e.*, seasonal agricultural labor), and—

(i) Your employer paid you less than \$150 in that year;

(ii) You are paid on a piece rate basis in an operation which has been, and is customarily and generally recognized in the region of employment as paying on a piece rate basis;

(iii) You commute daily from your permanent residence to the farm on which you are so employed; and,

(iv) You were employed in agriculture less than 13 weeks during the previous calendar year.

Example: In 1988, A (not a hand harvest laborer) performs agricultural labor for X for cash pay of \$144 in the year. X's total agricultural labor expenditures for 1988 are \$2,450. Neither the \$150 cash-pay test nor the \$2,500 expenditures test is met. Therefore, X's payments to A are not wages.

(c) *When cash-pay is creditable as wages.* (1) If you receive cash pay from an employer for services which are agricultural labor and for services which are not agricultural labor, we count only the amounts paid for agricultural labor in determining whether cash payments equal or exceed \$150. If the amounts paid are less than \$150, we count only those amounts paid for ag-

ricultural labor in determining if the \$2500 expenditure test is met.

Example: Employer X operates a store and also operates a farm. Employee A, who regularly works in the store, works on X's farm when additional help is required for the farm activities. In calendar year 1988, X pays A \$140 cash for agricultural labor performed in that year, and \$2,260 for work in connection with the operation of the store. Additionally, X's total expenditures for agricultural labor in 1988 were \$2,010. Since the cash payments by X to A in the calendar year 1988 for agricultural labor are less than \$150, and total agricultural labor expenditures were under \$2,500, the \$140 paid by X to A for agricultural labor is not wages. The \$2,260 paid for work in the store is wages.

(2) The amount of cash pay for agricultural labor that is creditable to an individual is based on cash paid in a calendar year rather than on amounts earned during a calendar year.

(3) If you receive cash pay for agricultural labor in any one calendar year from more than one employer, we apply the \$150 cash-pay test and \$2,500 total expenditures test to each employer.

(d) *Application of the \$150 cash-pay and 20-day tests prior to 1988.* (1) For the time period prior to 1988, we apply either the \$150 a year cash-pay test or the 20-day test. Cash payments are wages if you receive \$150 or more from an employer for agricultural labor or under the 20-day test if you perform agricultural labor for which cash pay is computed on a time basis on 20 or more days during a calendar year. For purposes of the 20-day test, the amount of the cash pay is immaterial, and it is immaterial whether you also receive payments other than cash or payments that are not computed on a time basis. If cash paid to you for agricultural labor is computed on a time basis, the payments are not wages unless they are paid in a calendar year in which either the 20-day test or the \$150 cash-pay test is met.

(2) [Reserved]

[57 FR 59914, Dec. 17, 1992, as amended at 61 FR 38367, July 24, 1996; 70 FR 41955, July 21, 2005]

§ 404.1056 Explanation of agricultural labor.

(a) *What is agricultural labor.* (1) If you work on a farm as an employee of