

§ 531.28

made to parts 778 and 800 of this chapter for a more detailed discussion of the applicable principles.

(c) Tips may be credited or offset against the wages payable under the Act in certain circumstances, as discussed later in this subpart. See also the recordkeeping requirements contained in part 516 of this chapter.

§ 531.28 Restrictions applicable where payment is not in cash or its equivalent.

It appears to have been the clear intention of Congress to protect the basic minimum wage and overtime compensation required to be paid to the employee by sections 6 and 7 of the Act from profiteering or manipulation by the employer in dealings with the employee. Section 3(m) of the Act and subpart B of this part accordingly prescribe certain limitations and safeguards which control the payment of wages in other than cash or its equivalent. (Special recordkeeping requirements must also be met. These are contained in part 516 of this chapter.) These provisions, it should be emphasized, do not prohibit payment of wages in facilities furnished either as additions to a stipulated wage or as items for which deductions from the stipulated wage will be made; they prohibit only the use of such a medium of payment to avoid the obligation imposed by sections 6 and 7.

§ 531.29 Board, lodging, or other facilities.

Section 3(m) applies to both of the following situations: (a) Where board, lodging, or other facilities are furnished in addition to a stipulated wage; and (b) where charges for board, lodging, or other facilities are deducted from a stipulated wage. The use of the word "furnishing" and the legislative history of section 3(m) clearly indicate that this section was intended to apply to all facilities furnished by the employer as compensation to the employee, regardless of whether the employer calculates charges for such facilities as additions to or deductions from wages.

29 CFR Ch. V (7-1-13 Edition)**§ 531.30 "Furnished" to the employee.**

The reasonable cost of board, lodging, or other facilities may be considered as part of the wage paid an employee only where customarily "furnished" to the employee. Not only must the employee receive the benefits of the facility for which he is charged, but it is essential that his acceptance of the facility be voluntary and uncoerced. See *Williams v. Atlantic Coast Line Railroad Co.* (E.D.N.C.). 1 W.H. Cases 289.

§ 531.31 "Customarily" furnished.

The reasonable cost of board, lodging, or other facilities may be considered as part of the wage paid an employee only where "customarily" furnished to the employee. Where such facilities are "furnished" to the employee, it will be considered a sufficient satisfaction of this requirement if the facilities are furnished regularly by the employer to his employees or if the same or similar facilities are customarily furnished by other employees engaged in the same or similar trade, business, or occupation in the same or similar communities. See *Walling v. Alaska Pacific Consolidated Mining Co.*, 152 F. (2d) 812 (C.A. 9), cert. denied, 327 U.S. 803; *Southern Pacific Co. v. Joint Council* (C.A. 9) 7 W.H. Cases 536. Facilities furnished in violation of any Federal, State, or local law, ordinance or prohibition will not be considered facilities "customarily" furnished.

§ 531.32 "Other facilities."

(a) "Other facilities," as used in this section, must be something like board or lodging. The following items have been deemed to be within the meaning of the term: Meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; housing furnished for dwelling purposes; general merchandise furnished at company stores and commissaries (including articles of food, clothing, and household effects); fuel (including coal, kerosene, firewood, and lumber slabs), electricity, water, and gas furnished for the noncommercial personal use of the employee; transportation furnished