

**CHAPTER 3315**  
**DEPARTMENT OF EMPLOYMENT AND ECONOMIC**  
**DEVELOPMENT**  
**EMPLOYER TAXES**

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**3315.0100** [Repealed, L 2004 c 206 s 53]

**WAGES**

**3315.0200 PURPOSE.**

Subpart 1. **Scope.** Parts 3315.0200 to 3315.0213 further define "wages" as defined in Minnesota Statutes, section 268.035, subdivision 29, and used in Minnesota Statutes, sections 268.03 to 268.23; this chapter; interpretations; forms; and other official pronouncements issued by the department.

Subp. 2. [Repealed, 13 SR 1057]

Subp. 3. [Repealed, 13 SR 1057]

Subp. 4. [Repealed, 13 SR 1057]

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999*

**3315.0202** [Repealed, L 2004 c 206 s 53]

**3315.0203 WAGES PAYABLE, CORPORATE OFFICERS.**

If a corporation does not have a regularly scheduled pay date for its officers or have reference to one in the corporate minutes, the wages of its corporate officers are considered due when paid. If the corporate minutes specify an amount to be paid each period, such as a week, month, or year, without specifying an exact pay date, the wages for a period are considered due no later than the end of the period.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

**3315.0210** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0211 TIPS AND GRATUITIES AS WAGES.**

Subpart 1. **Accounted for to the employer.** Tips and gratuities are accounted for to the employer in various manners or forms including when they are:

- A. added to the customer's bill by the employer;
- B. added to the bill by a customer using credit for the purchase;

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C. disbursed by the employer from a tip pool; or  
 D. reported to the employer in compliance with the Internal Revenue Code of 1986.

Subp. 2. **Paid to an employee by a customer.** Tips and gratuities are considered paid to an employee by a customer if they are:

A. received directly from the customer;  
 B. distributed from a tip pool, whether controlled by the employer or employees;  
 or

C. received as part of a plan or system under which the person initially receiving them, whether directly from the customer or from a tip pool, distributes a portion of the tips to other employees.

Under items A to C the tips are considered as being paid by the customer to the person ultimately receiving them.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057*

**3315.0212 EMPLOYEE EQUIPMENT AND VEHICLES.**

Subpart 1. **Trucks, bulldozers, tractors.** The compensation of the operator and supplier of a bulldozer, tractor, or similar equipment, and trucks other than truck owner-operators excluded under Minnesota Statutes, section 268.035, subdivision 25b, whose compensation includes wages for personal services as well as the cost of operating and hiring the equipment are wages unless the amount attributable to wages is separately identified either by making separate payments; or, if both wages and equipment hire are combined in a single payment, by a prearranged written agreement or by specifically indicating the separate amounts at the time of each payment.

Subp. 2. **Advances or reimbursements as wages.** Payments to an employee that include advances or reimbursements for use of a personal vehicle of up to 9,000 pounds gross vehicle weight in the employer's business are wages unless the amount attributable to the use of the vehicle is separately paid or stated as prescribed in Minnesota Statutes, section 268.035, subdivision 29, paragraph (a), clause (10), and the advance or reimbursement is not unreasonable or arbitrary in which case only the amount attributable to services performed is wages.

Subp. 3. **Commissioner determination of wages.** If the commissioner finds that the wage determination of the equipment operators or employees who use their personal vehicles in the employer's business prescribed by subparts 1 and 2 would be unreasonable or arbitrary in a particular case, then the commissioner must determine the amount of the wages of the employee involved.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 17 SR 1279; 31 SR 285; 33 SR 999*

**3315.0213 NONCASH WAGES.**

Except as may otherwise be provided in this chapter, the cash value of wages payable in any medium other than cash is:

A. the fair market value of meals or any value agreed upon between the employer and employee if it is not less than the allowance as provided in Minnesota Statutes, sections 177.21 to 177.35, the Minnesota Fair Labor Standards Act, and rules promulgated thereunder;

B. the value of rent of a house, apartment, or other lodging, furnished to an employee that would be paid by an employee for similar or equivalent accommodations, but in no event less than the allowance provided in Minnesota Statutes, sections 177.21 to 177.35 and rules promulgated thereunder; or

C. the fair market value, determined when received, of any other payment for services unless a higher value is agreed upon between the employer and the employee.

If the commissioner determines that the reasonable fair market value is other than as determined by the employer the commissioner must, after affording the employer reasonable opportunity for the submission of relevant information, determine the reasonable cash value of board, rent, housing, meals, or similar advantage.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

**3315.0220** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0300** [Renumbered 3315.0211]

**3315.0400** [Renumbered 3315.0213]

**3315.0500** [Renumbered 3315.0212]

## EMPLOYMENT

### 3315.0501 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 3315.0501 to 3315.0555 the following terms have the meaning given to them.

Subp. 2. **Control.** "Control" is the power to instruct, direct, or regulate the activities of an individual whether or not the power is exercised.

Subp. 3. [Repealed, L 2004 c 206 s 53]

Subp. 4. [Repealed, L 2004 c 206 s 53]

Subp. 5. [Repealed, L 2004 c 206 s 53]

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057; L 2004 c 206 s 53*

**3315.0510** [Repealed, L 2004 c 206 s 53]

**3315.0515** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0520** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0525** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0530** Subpart 1. [Repealed, L 2004 c 206 s 53]

Subp. 2. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 5. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 6. [Repealed, L 2007 c 128 art 4 s 6]

**3315.0535** [Repealed, L 2004 c 206 s 53]

**3315.0540** [Repealed, L 2007 c 128 art 4 s 6]

**3315.0545** [Repealed, L 2004 c 206 s 53]

**3315.0550** [Repealed, L 2007 c 128 art 4 s 6]

### 3315.0555 DETERMINING WORKER STATUS.

Subpart 1. **Essential factors.** When determining whether an individual is an employee or an independent contractor, five essential factors must be considered and weighed within

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a particular set of circumstances. Of the five essential factors to be considered, the two most important are those:

A. that indicate the right or the lack of the right to control the means and manner of performance; and

B. to discharge the worker without incurring liability. Other essential factors to be considered and weighed within the overall relationship are the mode of payment; furnishing of materials and tools; and control over the premises where the services are performed.

Other factors, including some not specifically identified in this part, may be considered if a determination is inconclusive when applying the essential factors, and the degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation.

Subp. 2. **Additional factors considered.** Additional factors to be considered are those listed in items A to H.

A. **Availability to public.** That an individual makes services available to the general public on a continuing basis is usually indicative of independent status. An individual may offer services to the public in a number of ways including having an office and assistants, displaying a sign in front of the home or office, holding a business license, having a listing in a business directory or a business listing in a telephone directory, or advertising in a newspaper, trade journal, or magazine.

B. **Compensation on job basis.** A person working in employment is usually paid by the hour, week, or month. Payment on a job basis is customary where the worker is independent. Payment by the job may include a predetermined lump sum which is computed by the number of hours required to do the job at a fixed rate per hour or periodic partial payments based upon a percent of the total job price or the amount of the total job completed. The guarantee of a minimum salary or the granting of a drawing account at stated intervals with no requirement for repayment of the excess over earnings indicates the existence of employment.

C. **Realization of profit or loss.** An individual who is in a position to realize a profit or suffer a loss as a result of the individual's services is generally independent, while the individual who is working in employment is not in that position.

D. **Obligation.** An individual working in employment usually has the right to end the relationship with an employer at any time the individual wishes without incurring liability, although the individual may be required to provide notice of termination for some period in advance of the termination. An independent worker usually agrees to complete a specific job. An independent worker is responsible for its satisfactory completion and is liable for failure to complete the job.

E. **Substantial investment.** A substantial investment by a person in facilities used by the person in performing services for another tends to show an independent status. The furnishing of all necessary facilities by the employer tends to indicate the absence of an independent status. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, and similar items that are provided by individuals working in employment as a common practice in their particular trade. A substantial expenditure of time or money for an individual's education is not necessarily indicative of an independent relationship. Substantial investment means a monetary investment representing something of considerable worth, in relation to the overall requirements of the person's chosen profession, trade, occupation, or vocation.

F. **Simultaneous contracts.** If an individual works for a number of persons or firms at the same time, it indicates an independent status because the worker is usually free from control by any of the firms. It is possible that a person may work for a number of people or firms and still be an employee of one or all of them.

**G. Responsibility.** An employer is usually responsible for the negligence, personal behavior, and work actions of a person working in employment in contacts with customers and the general public during times that the person is performing services for the employer. An independent worker is usually accountable for his or her own actions.

**H. Services in the course of the employer's organization, trade, or business.** Services that are in the course of the employer's organization, trade, or business consist of services which are a part or process of the employer's organization, trade, or business and ancillary or incidental services. Services which are a part or process of the employer's trade or business are generally performed by individuals in employment. Therefore, it is a consideration in determining the status of an individual. This consideration, as with all other considerations, is not a sole determinative factor. "Part" and "process" are not synonymous. Process refers to those services which directly carry out the fundamental purposes for which the organization, trade, or business exists, for example, painting and repairing automobile bodies in an automobile body paint and repair shop. Part refers to any other services which are essential to the operation or maintenance of the organization, trade, or business, for example, routine cleaning of premises and maintenance of tools, equipment, and buildings. Ancillary or incidental services include landscaping the areas around an automobile body paint and repair shop. Other services that meet the part, process, or ancillary classification are those services in connection with purchasing, receiving, storing, pricing, displaying, selling, and delivery of merchandise and housekeeping services required for the safety and comfort of customers and the general public or to maintain the premises in a manner as to promote business.

Subp. 3. **Determination of control.** Items A to M describe criteria for determining if the employer has control over the method of performing or executing services. The total circumstances must be considered to determine if control is present.

**A. Authority over assistants.** Control over the individual is indicated when the employer hires and pays the individual's assistants and supervises the details of the assistant's work.

**B. Compliance with instructions.** Control is indicated when an individual is required to comply with detailed instructions about when, where, and how to work including the order or sequence in which the service is to be performed. Mere suggestions as to detail or necessary and usual cooperation where the work furnished is part of a larger undertaking, does not normally evince control. Some individuals may work without receiving instructions because they are highly proficient in their line of work; nevertheless, the control factor is present if the employer has the right to instruct or direct the methods for doing the work and the results achieved. Instructions may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished. However, instructions required by state or federal law or regulation or general instructions passed on by the employer from a client or customer, generally does not evince control.

**C. Oral or written reports.** Control is indicated if regular oral or written reports relating to the method in which the services are performed must be submitted to the employer. Periodic reports relating to the accomplishment of a specific result may not be indicative of control if, for example, the reports are used to establish entitlement to partial payment based upon percentage of completion of a job, or the reports are needed to determine compliance with the terms of a contract. Completion of receipts, invoices, and other forms customarily used in the particular type of business activity or required by law does not constitute written reports.

**D. Place of work.** Doing the work on the employer's premises is not control in itself; however, it does imply that the employer has control, especially when the work could be done elsewhere. When work is done off the premises it does indicate some freedom from control; however, in some occupations, the services are necessarily performed away from the premises of the employer and are still considered to be in employment.

E. **Personal performance.** Control is indicated if the services must be personally rendered to the employer. Personal performance of a very specialized work, when the worker is hired on the basis of professional reputation, as in the case of a consultant known in the academic and professional circles to be an authority in the field, is a less reliable indicator of control. Lack of control may be indicated when an individual has the right to hire a substitute without the employer's knowledge or consent.

F. **Existence of a continuing relationship.** The existence of a continuing relationship between an individual and the person for whom an individual performs services is a factor tending to indicate the existence of an employer-employee relationship. Continuing services may include work performed at frequently recurring, though somewhat irregular intervals, either on call of the employer or whenever work is available.

G. **Right to discharge.** The right to discharge is a very important factor indicating that the right to control exists particularly if the individual may be terminated with little notice, without cause, or for failure to follow specified rules or methods. An independent worker generally cannot be terminated without the firm being liable for damages if he or she is producing according to his or her contract specifications. Contracts which provide for termination upon notice or for specified acts of nonperformance or default are not solely determinative of the right to control. That a right to discharge is restricted because of a contract with a labor union or with other entities does not mean there is no control.

H. **Set hours of work.** The establishment of set hours of work by the employer indicates control. Where fixed hours are not practical because of the nature of the occupation, a requirement that the worker work at certain times is an element of control.

I. **Training.** Training of an individual by an experienced employee working with the individual, by required attendance at meetings, and by other methods, is a factor of control especially if the training is given periodically or at frequent intervals.

J. **Amount of time.** If the worker must devote full time to the activity, control is indicated. Full time does not necessarily mean an eight-hour day or a five- or six-day week. Its meaning may vary with the intent of the parties, the nature of the occupation and customs in the locality. Full-time services may be required even though not specified in writing or orally. For example, a person may be required to produce a minimum volume of business which compels the person to devote all working time to that business, or the person may not be permitted to work for anyone else.

K. **Tools and materials.** The furnishing of tools, materials, and supplies by the employer is indicative of control over the worker. When the worker furnishes these items it indicates a lack of control, but lack of control is not indicated if the individual provides tools or supplies customarily furnished by workers in the trade.

L. **Expense reimbursement.** Payment by the employer of either the worker's approved business or traveling expenses, or both, is a factor indicating control over the worker. A lack of control is indicated when the worker is paid on a job basis and has to take care of all incidental expenses.

M. **Satisfying requirements of regulatory and licensing agencies.** If an employer is required to enforce standards or restrictions imposed by regulatory or licensing agencies, such action does not evince control.

Subp. 4. **Procedures for determining control.** The department must determine if control exists by:

- A. reviewing written contracts between the individual and the employer;
- B. interviewing the individual or employer;
- C. obtaining statements of third parties;
- D. examining regulatory statutes governing the organization, trade, or business;
- E. examining the books and records of the employer; and

F. making any other investigation necessary to determine if the elements of control specified in subpart 3 exist.

Subp. 5. [Repealed, L 2004 c 206 s 53]

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 17 SR 1279; L 2004 c 206 s 53; 31 SR 285*

**3315.0600** [Renumbered 3315.0220]

**3315.0700** [Renumbered 3315.0501]

**3315.0800** [Renumbered 3315.0555, subpart 5]

### AGRICULTURAL LABOR

#### 3315.0801 PURPOSE.

Parts 3315.0801 to 3315.0845 further define and clarify terms used in Minnesota Statutes, section 268.035, subdivisions 2, 11, and 20, clause (33), and in parts 3315.0801 to 3315.0845.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

#### 3315.0805 DEFINITIONS.

Subpart 1. **Agricultural and horticultural commodity.** "Agricultural or horticultural commodity" includes nuts, fruits, mushrooms, vegetables, honey, milk, eggs and grain, flowers, cut flowers, trees, sod and shrubbery, animal feed or bedding, grass seed, vegetable and cereal seed, flax, soy beans, sunflower seeds, corn, medicinal herbs, and other crops.

Subp. 2. **Commodity.** "Commodity" refers to a single product. For example, all apples are one commodity. Apples and peaches are two separate commodities.

Subp. 3. **Crop purchase agreement.** "Crop purchase agreement" means an agreement whereby a crop is raised under contract with a buyer.

Subp. 4. **Cultivating.** "Cultivating" means cultivating of the soil, irrigating crops, spraying, dusting, and other related operations.

Subp. 5. **Farm.** "Farm," unless otherwise excluded in part 3315.0820, means land or buildings if their primary use is for raising agricultural or horticultural commodities or for activities generally associated with the operation of a ranch, range, livestock, or dairy operation. A farm need not be a specific size and it need not be composed of contiguous plots. The performance of agricultural services does not by itself render the place where they are performed a farm.

Subp. 6. **Fur-bearing animals.** "Fur-bearing animals" are animals raised for the eventual use of their fur in the manufacture of clothing or other products.

Subp. 7. **Harvesting.** "Harvesting" includes baling hay and straw, shredding fodder, combining small grains, hulling nuts, and course grinding of alfalfa. Horticultural commodities including flowers, trees, shrubbery, and plants are harvested when they are taken up for sale or storage.

Subp. 8. **Livestock.** "Livestock" is any useful domestic animal kept for use on a farm or raised for sale and profit or for eventual consumption.

Subp. 9. **Poultry.** "Poultry" is any domestic fowl raised for meat or eggs and includes chickens, turkeys, ducks, and geese.

Subp. 10. **Primary.** "Primary" means 70 percent or more.

Subp. 11. **Raising.** "Raising" as it pertains to livestock, bees, poultry, fur-bearing animals, and wildlife means any or all stages of development, including breeding, which are necessary in their maturing for use on the farm or for sale. Raising does not include services

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in potting, watering, heeling, or otherwise caring for trees, shrubbery, plants, flowers, or similar items that are purchased in salable condition for the purpose of resale.

Subp. 12. **Terminal market.** A "terminal market" includes a packing or processing plant or any place where a farmer-producer customarily relinquishes economic interest in the commodity, its future form, or its destiny.

Subp. 13. **Wildlife.** "Wildlife" refers to frogs, birds, fish, and all animals belonging to a species or class generally considered wild regardless of the element which they inhabit.

**Statutory Authority:** *MS s 14.388; 268.021*

**History:** *13 SR 1057; 17 SR 1279; 33 SR 999*

## 3315.0810 UNMANUFACTURED STATE.

Minnesota Statutes, section 268.035, subdivision 2, requires that the services described in that subdivision be in connection with commodities that are in their unmanufactured state. A commodity that loses its original identity is considered in a manufactured state and services relating to the manufactured product are not agricultural. The following products are considered as being in a manufactured state: cheese; butter; yogurt; ice cream; dried or powdered milk; dried fruits or vegetables; juices, oils, and syrups derived from fruits and vegetables; and dried or powdered eggs.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999*

## 3315.0815 FARMS, INCLUSIONS.

Subpart 1. **Wild rice.** Land developed for seeding, cultivating, and raising wild rice is a farm.

Subp. 2. **Christmas trees.** A plot of land used primarily for raising Christmas trees is a farm.

Subp. 3. **Mushrooms.** Land and structures used primarily for raising mushrooms is a farm.

Subp. 4. **Wildlife.** A parcel of real property used for raising any form of wildlife is a farm.

Subp. 5. **Ranges.** Land used primarily for grazing is a farm.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057*

## 3315.0820 FARMS, EXCLUSIONS.

Subpart 1. **Feedlots, hatcheries, and horse training and breeding.** Feedlots, hatcheries, and horse training and breeding enterprises are not in themselves farms although they require services generally considered to be agricultural labor.

Subp. 2. **Wildland.** Property left in its wild state with no effort expended to perform common farming operations is not a farm.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057*

## 3315.0825 AGRICULTURAL LABOR ON FARMS.

Services connected with the following activities must be performed on a farm as defined in Minnesota Statutes, section 268.035, subdivision 2, and in parts 3315.0801 to 3315.0845, to be agricultural labor:

- A. breeding and training horses;
- B. hatching poultry;
- C. aerial seeding, fertilizing, spraying, and dusting including services related to the mixing of the spray or dust material or the loading of the material into the airplane,



as well as services related to the measuring of the swaths and the marking and flagging of fields to be dusted or sprayed;

D. clerical, bookkeeping, and other office work in conjunction with the services referred to in Minnesota Statutes, section 268.035, subdivisions 2 and 11; or

E. holding, feeding, and fattening livestock in feed lots.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

### 3315.0830 AGRICULTURAL LABOR, CONDITIONAL SITUATIONS.

Subpart 1. **Generally.** The services described in subparts 2 to 5 are not agricultural labor unless they meet the specific requirements set forth in subparts 2 to 5 with regard to where and for whom they are performed. When reference is made to "incidental to ordinary farming operations," that means services of the character ordinarily performed by employees of a farmer or of a farmer's cooperative organization or group as a prerequisite to marketing in its unmanufactured state any agricultural or horticultural commodity produced by the farmer, organization, or group.

Subp. 2. **Clerical work.** Record keeping and other clerical or office work performed in connection with the functions described in Minnesota Statutes, section 268.035, subdivisions 2 and 11, unless they are:

- A. performed in the employ of the owner or tenant or other operator of a farm;
- B. rendered in major part on a farm; and
- C. performed incidentally to ordinary farming operations.

Subp. 3. **Commodity retailing.** Retailing agricultural or horticultural commodities, on or off the farm, unless:

- A. the services are performed for, and the commodities are produced by the operator of the farm; and
- B. less than 50 percent of the employee's time is devoted to the services. The 50 percent test is to be applied to each employee with respect to either a pay period or 31 days, whichever is less.

Subp. 4. **Waterways work.** Services in the construction of canals, reservoirs, waterways, or drainage ditches, unless in the employ of the owner or tenant or other operator of a farm.

Subp. 5. **Land clearance.** Services in the clearing of stumps, brush, and debris from land in preparation for its use as a farm, unless done in the employ of the owner tenant or other operator of the farm.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

### 3315.0835 AGRICULTURAL LABOR EXCLUSIONS.

Subpart 1. **Generally.** Services connected with the following activities do not constitute agricultural labor:

- A. breeding, raising, and caring for mice, rats, and other rodents and creatures commonly held for sale in pet shops or raised for research and experimental purposes;
- B. breeding, raising, caring for, exhibiting, and boarding dogs and cats;
- C. racing, exhibiting, and boarding horses, including services connected with a riding stable or academy;
- D. lumbering or landscaping;
- E. collecting and processing maple sap into maple syrup or sugar;
- F. trapping animals;

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G. harvesting native wild rice not grown on land developed specifically for that purpose; or

H. raising and harvesting worms.

Subp. 2. **Packing plants.** Services performed in the employ of any person other than the operator of a farm in hauling crops to a packing plant and services within the plant do not constitute agricultural labor.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057*

**3315.0840 AGRICULTURAL LABOR, SEPARATE COMMODITIES.**

The services with respect to each commodity are to be considered separately in determining whether the conditions set forth in Minnesota Statutes, section 268.035, subdivisions 2 and 11, have been satisfied.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285*

**3315.0845 CROP PURCHASE AGREEMENTS.**

Subpart 1. **Farm operator.** A person agreeing to purchase a commodity grown under a crop purchase agreement does not by that reason qualify as an operator of a farm even though the person conducts some or all of the operations necessary for the production and harvesting of the crops purchased.

Subp. 2. **Agricultural labor.** Services performed on a farm in the employ of either party to a crop purchase agreement in connection with the raising and harvesting of crops is agricultural labor.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057; 17 SR 1279*

**3315.0900** [Renumbered 3315.0555, subpart 4]

**DOMESTIC SERVICE****3315.0901 PURPOSE.**

Parts 3315.0901 and 3315.0905 further define and clarify terms used in Minnesota Statutes, section 268.035, subdivision 20, clause (17), and in parts 3315.0901 and 3315.0905.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999*

**3315.0905 DEFINITIONS.**

Subpart 1. **Domestic service.** "Domestic service" means work ordinarily performed as an integral part of household duties that contribute to the maintenance of the employer's private home or administers to the personal wants and comforts of the employer and other members of the employer's household. In general "domestic service" includes work performed by cooks, table servers, butlers, housekeepers, house servants, security guards, cleaners, companions, child care providers and teachers employed in the household, valets, babysitters, launderers, furnace workers, caretakers, gardeners, grooms, sewing workers, odd-job workers, and chauffeurs of family automobiles. Domestic service performed for fraternities and sororities also includes services performed by houseparents.

Subp. 2. **Local college club.** "Local college club" means a club operated and controlled by and for the benefit of students enrolled at a university or college.

Subp. 3. **Private home.** "Private home" means the fixed abode of one or more persons. Any shelter used as a dwelling may be considered as a private home including a tent, boat, trailer, or a room or suite in a hospital, hotel, sanatorium, or nursing home. A cooperative

boarding and lodging facility may also be a private home. In an apartment house, each apartment, together with its stairways, halls, and porches is a private home. Parts of the premises devoted to common use, such as an office, furnace room, lawns, public stairways, halls, and porches, are not a part of the private home. If a facility is used mainly as a commercial rooming or boarding house only that part of the house which is used as the operator's living quarters is considered to be a private home.

**Statutory Authority:** *MS s 268.021*

**History:** *13 SR 1057; 17 SR 1279*

**3315.0910** Subpart 1. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 2. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 5. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 6. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 7. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 8. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 9. [Repealed, L 2005 c 112 art 2 s 42]

**3315.0915** [Repealed, L 2004 c 206 s 53]

**3315.0920** [Repealed, L 2004 c 206 s 53]

**3315.1000** Subpart 1. [Renumbered 3315.0555, subpart 3]

Subp. 2. [Renumbered 3315.0555, subpart 3, item A]

Subp. 3. [Renumbered 3315.0555, subpart 3, item B]

Subp. 4. [Renumbered 3315.0555, subpart 3, item C]

Subp. 5. [Renumbered 3315.0555, subpart 3, item D]

Subp. 6. [Renumbered 3315.0555, subpart 3, item E]

Subp. 7. [Renumbered 3315.0555, subpart 3, item F]

Subp. 8. [Renumbered 3315.0555, subpart 3, item G]

Subp. 9. [Renumbered 3315.0555, subpart 3, item H]

Subp. 10. [Renumbered 3315.0555, subpart 3, item I]

Subp. 11. [Renumbered 3315.0555, subpart 3, item J]

Subp. 12. [Renumbered 3315.0555, subpart 3, item K]

Subp. 13. [Renumbered 3315.0555, subpart 3, item L]

Subp. 14. [Renumbered 3315.0555, subpart 3, item M]

## RECORDS AND REPORTS

### 3315.1001 SCOPE.

Parts 3315.1001 and 3315.1010 clarify an employer's duty with regard to records and reports as required under Minnesota Statutes, chapter 268.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999*

**3315.1005** Subpart 1. [Repealed, L 2007 c 128 art 4 s 6]

Subp. 2. [Repealed, L 2004 c 206 s 53]

Subp. 3. [Repealed, L 2007 c 128 art 4 s 6]

**3315.1010 RECORDS.**

Subpart 1. **Record keeping.** Each employer must establish, maintain, and preserve records with respect to individuals performing personal services for it, including individuals who perform or assist in performing the work of any employee of the employer if the employer had actual or constructive knowledge that the work was being performed. The records must be preserved for a period of not less than eight years after the calendar year in which the compensation for the services was paid or payable, and must show for each individual the following:

- A. name;
- B. Social Security number;
- C. days in which the individual performed personal services;
- D. location where services were performed;
- E. wages paid and wages due but not paid for personal services, showing separately:
  - (1) money wages, excluding special payments;
  - (2) wages paid and wages due but not paid, in any medium other than money, excluding special payments;
  - (3) special payments such as bonuses, gifts, and prizes, showing separately money payments, other special payments, and the character of the payments; and
  - (4) tips and gratuities paid to an employee by a customer and accounted for by the employee to the employer as defined in part 3315.0211, subparts 1 and 2;
- F. rate and base unit of pay;
- G. amounts paid as allowances or reimbursement for travel or other activity pertaining to the furtherance of the employer's business which were not included as wages. The account must show each item of expense incurred during each pay period or calendar month;
- H. the date of separation and the reason, in detail, for the termination;
- I. the complete resident address of the employee;
- J. for each pay period:
  - (1) the beginning and ending dates of the period;
  - (2) the total amount of wages paid and wages due but not paid for personal services performed; and
  - (3) the date of payment; and
- K. for each calendar month or, if less, the established pay period of the employer, the hours spent performing services in employment and the hours spent performing non-covered employment, by each employee for which the provisions of Minnesota Statutes, section 268.035, subdivision 15, paragraph (a), clause (5), apply.

Subp. 2. **Instate and outstate.** For services performed within and without Minnesota the records required by subpart 1 must include:

- A. the city or county and state in which the employer maintains a base of operations, as defined in Minnesota Statutes, section 268.035, subdivision 12, clause (1), used by the individual;
- B. the city or county and state from which the services are directed and controlled, if the employer does not have a base of operations in the states in which an individual performs services; and
- C. a list of the states in which the individual performs other than temporary or incidental services and the dates services were performed at each location.

Subp. 3. **Covered and uncovered employment.** For services performed in both employment and noncovered employment within a pay period the records required by subpart

I must include the hours spent performing services in employment and the hours spent performing noncovered employment.

**Statutory Authority:** *MS s 14.386; 14.388; 268.021*

**History:** *13 SR 1057; 31 SR 285; 33 SR 999*

**3315.1015** Subpart 1. [Repealed, L 2004 c 206 s 53]

Subp. 2. [Repealed, L 2004 c 206 s 53]

Subp. 3. [Repealed, L 2004 c 206 s 53]

Subp. 4. [Repealed, L 2003 1Sp3 art 2 s 21]

**3315.1020** [Repealed, L 2005 c 112 art 1 s 16]

**3315.1100** Subpart 1. [Repealed, 13 SR 1057]

Subp. 2. [Renumbered 3315.0555, subpart 2]

Subp. 2a. [Renumbered 3315.0555, subpart 2, item A]

Subp. 3. [Renumbered 3315.0555, subpart 2, item B]

Subp. 4. [Renumbered 3315.0555, subpart 2, item C]

Subp. 5. [Renumbered 3315.0555, subpart 2, item D]

Subp. 6. [Renumbered 3315.0555, subpart 2, item E]

Subp. 7. [Renumbered 3315.0555, subpart 2, item F]

Subp. 8. [Renumbered 3315.0555, subpart 2, item G]

Subp. 9. [Renumbered 3315.0555, subpart 2, item H]

**3315.1200** [Renumbered 3315.0555, subpart 1]

**3315.1300** [Renumbered 3315.0515]

**3315.1301** Subpart 1. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 2. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 3. [Repealed, L 2004 c 206 s 53; L 2005 c 112 art 2 s 42]

Subp. 4. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 5. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 6. [Repealed, L 2004 c 206 s 53; L 2005 c 112 art 2 s 42]

**3315.1305** [Repealed, L 2004 c 206 s 53]

**3315.1310** [Repealed, L 2004 c 206 s 53]

**3315.1315** Subpart 1. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 2. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 3. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]

**3315.1400** [Renumbered 3315.0510]

**3315.1500** [Renumbered 3315.0520]

**3315.1600** [Renumbered 3315.0545]

**3315.1650** Subpart 1. [Repealed, L 2004 c 206 s 53; L 2005 c 112 art 2 s 42]

Subp. 2. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 3. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 4. [Repealed, L 2005 c 112 art 2 s 42]

Subp. 5. [Repealed, L 2005 c 112 art 2 s 42]

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- 3315.1700** [Renumbered 3315.0550, subpart 1]
- 3315.1800** Subpart 1. [Renumbered 3315.0550, subpart 2]
  - Subp. 2. [Renumbered 3315.0550, subpart 3]
  - Subp. 3. [Renumbered 3315.0550, subpart 4]
  - Subp. 4. [Renumbered 3315.0550, subpart 5]
  - Subp. 5. [Renumbered 3315.0550, subpart 6]
- 3315.1900** [Renumbered 3315.0535]
- 3315.2000** [Renumbered 3315.0540]
- 3315.2010** [Repealed, L 2007 c 128 art 4 s 6]
- 3315.2100** [Renumbered 3315.0530]
- 3315.2200** [Renumbered 3315.0525]
- 3315.2210** [Repealed, L 2005 c 112 art 2 s 42]
- 3315.2300** [Renumbered 3315.0801]
- 3315.2400** [Renumbered 3315.0805]
- 3315.2410** [Repealed, L 2004 c 206 s 53]
- 3315.2500** [Renumbered 3315.0820]
- 3315.2600** [Renumbered 3315.0815]
- 3315.2610** [Repealed, L 2004 c 206 s 53]
- 3315.2700** [Renumbered 3315.0845]
- 3315.2750** [Repealed, L 2004 c 206 s 53]
- 3315.2800** [Renumbered 3315.0825]
- 3315.2810** Subpart 1. [Repealed, L 2004 c 206 s 53]
  - Subp. 2. [Repealed, L 2007 c 128 art 4 s 6]
  - Subp. 3. [Repealed, L 2004 c 206 s 53]
  - Subp. 4. [Repealed, L 2007 c 128 art 4 s 6]
- 3315.2900** [Renumbered 3315.0830]
- 3315.3000** [Renumbered 3315.0835]
- 3315.3100** [Renumbered 3315.0840]
- 3315.3200** [Renumbered 3315.0901]
- 3315.3210** [Repealed, L 2005 c 112 art 1 s 16]
- 3315.3220** Subpart 1. [Repealed, L 2005 c 112 art 1 s 16]
  - Subp. 2. [Repealed, L 2005 c 112 art 1 s 16]
  - Subp. 3. [Repealed, L 2005 c 112 art 1 s 16]
  - Subp. 4. [Repealed, L 2004 c 206 s 53]
- 3315.3300** [Renumbered 3315.0905]
- 3315.3400** Subpart 1. [Repealed, 13 SR 1057]
  - Subp. 2. [Renumbered 3315.0910, subpart 1]
  - Subp. 3. [Renumbered 3315.0910, subpart 2]

- Subp. 4. [Renumbered 3315.0910, subpart 3]
- Subp. 5. [Renumbered 3315.0910, subpart 4]
- Subp. 6. [Renumbered 3315.0910, subpart 5]
- Subp. 7. [Renumbered 3315.0910, subpart 6]
- Subp. 8. [Renumbered 3315.0910, subpart 7]
- Subp. 9. [Renumbered 3315.0910, subpart 8]
- Subp. 10. [Renumbered 3315.0910, subpart 9]
- 3315.3500** [Renumbered 3315.0920]
- 3315.3600** [Renumbered 3315.1001]
- 3315.3700** [Renumbered 3315.1005]
- 3315.3800** [Renumbered 3315.1010, subpart 1]
- 3315.3900** [Renumbered 3315.1010, subpart 2]
- 3315.4000** [Renumbered 3315.1010, subpart 3]
- 3315.4100** [Renumbered 3315.1015]
- 3315.4200** [Renumbered 3315.1020, subpart 1]
- 3315.4300** Subpart 1. [Renumbered 3315.1020, subpart 2]
  - Subp. 2. [Renumbered 3315.1020, subpart 2, item A]
  - Subp. 3. [Renumbered 3315.1020, subpart 2, item B]
  - Subp. 4. [Renumbered 3315.1020, subpart 2, item C]
  - Subp. 5. [Renumbered 3315.1020, subpart 2, item D]
- 3315.4400** [Renumbered 3315.1020, subpart 3]
- 3315.4500** [Renumbered 3315.1020, subpart 4]
- 3315.4600** [Renumbered 3315.1020, subpart 5]
- 3315.4700** [Renumbered 3315.1020, subpart 6]
- 3315.4800** [Renumbered 3315.1020, subpart 7]
- 3315.4900** [Renumbered 3315.1020, subpart 8]
- 3315.5000** [Renumbered 3315.1020, subpart 9]
- 3315.5100** [Renumbered 3315.1020, subpart 10]
- 3315.5200** [Renumbered 3315.1020, subpart 11]
- 3315.5300** [Renumbered 3315.1020, subpart 12]
- 3315.5400** [Renumbered 3315.1020, subpart 13]
- 3315.5500** [Renumbered 3315.1020, subpart 14]
- 3315.5600** [Renumbered 3315.1020, subpart 15]
- 3315.5700** [Renumbered 3315.1020, subpart 16]
- 3315.5800** [Renumbered 3315.1020, subpart 17]
- 3315.5900** [Renumbered 3315.1020, subpart 18]
- 3315.6000** [Renumbered 3315.1020, subpart 19]
- 3315.6100** [Renumbered 3315.2210]

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**3315.6200** Subpart 1. [Renumbered 3315.1305]

Subp. 2. [Repealed, 13 SR 1057]