

CASH OUT IN LIEU OF VACATION LEAVE HOURS FREQUENTLY ASKED QUESTIONS (FAQ)

What is Cash in Lieu of Vacation Leave hours?

Cash in Lieu of Vacation Leave hours is the term used to denote the purchase of unused accrued vacation for cash. Each collective bargained agreement (CBA), Memorandum of Agreement (MOA) and/or Memorandum of Understanding (MOU) contains provisions for redeeming hours of vacation, so long as the employee meets the criteria for the redemption.

Refer to your specific agreement for provisions and qualifications: [Current City Labor Agreements | Portland.gov](#).

How do I know if I qualify for the Cash in Lieu of Vacation Leave hours election?

Refer to your specific agreement for provisions and qualifications. If you are still unsure if you qualify for a Cash in Lieu of Vacation Leave hours election, your Bureau payroll or human resources point of contact can help you determine your eligibility.

Why can't I cash out my vacation leave as soon as its accrued?

The Department of Treasury, Internal Revenue Service (IRS), as a rule has determined compensation is to be included in an employee's gross income in the year it is received, whether actually received in the form of a biweekly or supplemental check, or constructively received in the form of hours earned and accrued in your vacation, annual or other leave bank.

- When an employee receives his or her biweekly pay, that income is actually received.
- When compensation is credited to an employee's account or otherwise made available so that the employee could have drawn upon it during the taxable year if notice of intention to withdraw had been given, that income is constructively received. This is true even if the employee never actually withdraws the funds.
- However, income is not constructively received if the employee's control of its receipt is subject to substantial limitations or restrictions. (Treas. Reg. § 1.451-2(a).)

Your specific CBA, MOA or MOU agreement gives members the option to cash-out specified amounts of accrued leave subject to certain conditions. If these conditions are determined not to be "substantial limitations and restrictions" on employee control over the cash-out of vacation leave hours as determined by the IRS, employees who have the option to cash out leave would be subject to taxation under the constructive receipt rule even when they had not, in actuality, cashed out vacation leave. To avoid this risk, the City has established a leave cash-out program modeled on plans approved by the Internal Revenue Service in private letter rulings.

To conform to IRS tax code, the City's program contains two key limitations on the option to cash-out vacation leave:

- (1) The employee must make an irrevocable election (e.g., a legal arrangement between the employee and the City to cash-out vacation leave in the calendar year preceding the year in which the leave is cashed out, and
- (2) Only leave accrued during the year in which leave is cashed out may be cashed out.

Can you give me an example of what “constructive receipt” is?

One example is that of a savings or investment account you have on deposit with your financial institution (e.g., bank). During the year, you earn interest on your savings or investment. At the end of the calendar year, the bank sends you a formal tax document stating they deposited interest to your account. At that time, you can either leave the funds on deposit, to let amounts compound and earn more interest, or you can withdraw the interest to spend as you please. There are few, if any, restrictions, or limitations. The mere fact that you can withdraw that interest, whether you do or not, makes you constructively in receipt of the funds.

Additionally, the bank sends you IRS Form 1099 that lists the dollar value of the interest you earned and received on that savings/investment account. By law, you are required to include the dollar value of the interest listed on that IRS Form 1099 as income on your annual tax returns, and you are required by law to be held accountable for the taxes associated with those interest earnings. In April, when you file your federal and state income taxes, you must include the dollar value of the interest listed on your 1099 form with your other income. Including the income may result in increased taxes, as well.

Why do I need to complete a form?

The Cash in Lieu of Vacation Leave Hours Election/Waiver Form is a binding arrangement between you, the employee, and the city. Whatever choice you make on the form you cannot “opt out” of later should you change your mind at any time during the subsequent calendar year.

- If you want to redeem vacation hours for cash in a subsequent calendar year, and you meet the eligibility criteria as provided for in your specific agreement, then check the box labeled: “I **Elect** Cash in Lieu of Vacation Leave Hours” and enter the number of hours you are electing to purchase next calendar year.
- If you have no intentions of redeeming vacation hours for cash in a subsequent calendar year, then you check the box labeled: “I **Waive** Cash in Lieu of Vacation Leave Hours” and submit the form. Once you check that box and submit the form, you are no longer allowed to purchase any of your earned hours in the subsequent calendar year.
- If you fail to submit the form, by default you are waiving your right to receive cash in lieu of vacation leave hours in the subsequent taxable calendar year.

Please consider your choice thoughtfully as the election will be irrevocable.

Where do I submit the Cash in Lieu of Vacation Leave Hours Election/Waiver form?

The Cash in Lieu of Vacation Leave Hours Election/Waiver Form may be submitted as follows:

- 1) Email the completed form to Inbox, BHR Central Payroll InboxBHRCentralPayroll@portlandoregon.gov. Ensure that the document is in either PDF or JPEG format.
- 2) Hand delivered to 9th Floor reception desk with note to route to Central Payroll staff.
- 3) Inter-Office mail: Floor 987
- 4) US Postal Service (USPS) mail: Central Payroll, Attn: Payroll Services, Portland Building 1120 SW 5th Ave, Room 987, Portland, OR 97204-1912. Central Payroll will confirm receipt of the form with the employee's Bureau OBPA (payroll staff).

When are the election forms due?

When using submission method (1), election forms must be emailed to the Central Payroll no later than Midnight, December 31st.

When using submission methods (2) and (3), election forms are due back to Central Payroll no later than 4:00pm December 31st.

When using submission method (4), envelopes must be post marked December 31st.

When can I request to cash out hours?

If an employee has elected (in the previous calendar year) to cash out their vacation hours they are eligible to request the one-time cash out once they have accrued that number of vacation hours within the taxable calendar year.

Example (A):

In the following example before the end of December 2023 the employee elected to purchase 40 hours during taxable calendar year 2024.

Pay Periods	PP01	PP02	PP03	PP04	PP05	PP06	PP07
PP Accrued Hours	5.85	5.85	5.85	5.85	5.85	5.85	5.85
Total Accrued Hours	5.85	11.70	17.55	23.40	29.25	35.10	40.95

Using the above illustration, the employee may complete and submit a Request for Payment of Cash in Lieu of Vacation Leave Hours Form any time after pay period 2024-07, upon accruing the first 40 hours of vacation in the calendar year.

Example (B):

In the following example before the end of December 2023 the employee elected to purchase 20 hours during taxable calendar year 2024.

Pay Periods	PP01	PP02	PP03	PP04	PP05	PP06	PP07
PP Accrued Hours	5.85	5.85	5.85	5.85	5.85	5.85	5.85
Total Accrued Hours	5.85	11.70	17.55	23.40	29.25	35.10	40.95

Using the above illustration, the employee may complete and submit a Request for Payment of Cash in Lieu of Vacation Leave Hours Form any time after pay period 2024-04, upon accruing the first 20 hours of vacation in the calendar year.

If I cannot purchase hours I’ve earned in a previous calendar year, what happens to those hours?

Hours earned (accrued) prior to implementation of the CBA, MOA or MOU agreement are still your hours earned and may be used for any vacation time off request.

Only the number of hours you choose to purchase for the upcoming calendar year will be recorded in a designated Cash Out leave bank. Any additional hours beyond what you elect will accrue as normal to your regular vacation leave bank to be used for vacation time off requests.

Will the hours remaining in my regular vacation leave bank be taxed at the end of the current calendar year?

No. The hours remaining in your regular vacation leave bank will remain there until they are used for vacation time off requests or cashed out to you upon separation of employment. Purchasing hours accumulated in the regular leave bank is not allowed.

How do I request a cash out of the hours I elected?

Once you have accrued the total hours indicated on the *Cash in Lieu of Vacation Leave Hours Election/Waiver Form*, in the subsequent calendar year, you may request to cash out the hours by completing a *Request for Payment of Cash in Lieu of Vacation Leave Hours Form*. The form must be received by Central Payroll no later than 5:00pm on pay period end to include it in the next biweekly paycheck. Please refer to the Payroll Calendar for pay period end (PPE) date [Time and Pay Administration | Portland Employees](#).

In the event we receive your request too late to be included in the next biweekly cycle, your request will be processed during the next available paycheck cycle. *Cash outs will not be processed on an off-cycle check.*

Cash in Lieu of Vacation Leave Hours is considered supplemental wages and is taxed at the optional rate for supplemental wages for federal and state, irrespective of the employee's W-4 on file and regardless of whether it is paid on a regular paycheck or a separate check.

What happens if I don't request payment of Cash in Lieu of Vacation Leave Hours, or I forget to request to cash out hours?

If for example, at the end of taxable calendar year 2024, you have not submitted a Request for Payment of Cash in Lieu of Vacation Leave Hours which you had elected in December 2023, Central Payroll will automatically include the elected hours on the final paycheck paid in December 2024. This procedure is no different than if you were to request the payout yourself.

In December, I waived my right to receive cash in lieu of vacation leave hours in the subsequent calendar year or I did not submit an election. Now, I need to conduct a cash out due to a hardship; am I allowed to purchase hours, even after I've elected not to do so?

No. Failure to submit a form within the specified time frame, or if the form is incomplete or contains inaccurate information, will result in an irrevocable election to forgo your entitlement to receive cash compensation in place of vacation hours. This is like submitting a fully completed waiver election form. The irrevocable election cannot be modified. It is important you make your choice carefully.

In December, I elected to receive less than 40 hours cash in lieu of vacation leave hours in the subsequent calendar year. Now, I need to increase the number of hours to be cashed out due to a hardship. Am I allowed to change my election?

No. The irrevocable election cannot be modified. It is important you make your choice carefully.

In December, I elected to purchase hours in the subsequent calendar year. However, now I need those hours to coordinate my leave for a medical or family emergency. Am I allowed to "opt out" of my original election?

No. The irrevocable election cannot be modified. It is important you make your choice carefully.

In December, when I made my election, I was a member of one union. During the subsequent calendar year, I moved (either permanently or temporarily) to a position represented by a different Union or non-represented. What happens to my election?

The irrevocable election is binding, and the original election terms will remain in effect even if the employee moves to a non-represented classification or moves to a classification represented by a different union.

If employees have accumulated their full amount of elected vacation leave hours, it is advisable that they submit a completed Request for Payment of Cash in Lieu of Vacation Leave Hours form before moving to a classification not covered under the specific CBA, MOA or MOU agreement provisions tied to the irrevocable election. Alternatively, Central Payroll will automatically pay out the specified hours in the pay period following notification of the change.

If the employee has not yet accrued all the elected vacation leave hours, Central Payroll will automatically pay out the specified hours in the pay period once the total hours have been accumulated.

Where can I find the forms?

Both the Cash in Lieu of Vacation Leave Hours Election/Waiver Form and Request for Payment of Cash in Lieu of Vacation Leave Hours Form can be found at [BHR Documents & Forms | Portland Employees](#).