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## Earning hours: Accrual and carryover FAQ

### What is the accrual of hours?

Accrual of hours is when each ESST hour is added to a saved total the employee may use. AbbeyCare will provide each employee with one hour of ESST for every 30 hours worked, up to at least 48 hours a year.

#### *Sample scenarios*

- Manuel works 30 hours a week at Classic Automotive and has worked there for seven months (28 weeks). Manuel has accrued 28 hours of ESST: 30 hours worked x 28 weeks = 840 hours worked. 840 divided by 30 = 28 hours of ESST.
- Sara works 40 hours a week at Mid-Minnesota Warehousing and has worked there for three weeks. Sara has accrued 4 hours of ESST: 40 hours worked x 3 weeks = 120 hours worked. 120 divided by 30 = 4 hours of ESST.

### What is a “year”?

A “year” means January 1<sup>st</sup> through December 31<sup>st</sup>.

New employees begin accruing ESST on their first day of employment.

### Can an employer put a cap on how many ESST hours an employee can accrue?

Yes, employers may set a cap or limit on each employee’s ESST accrual. AbbeyCare will allow each employee to accrue up to at least 48 hours a year, carried over from year to year, until an 80-hour maximum accrual is reached.

#### *Sample scenario*

- Ali Consultants limits its employees’ accrual of ESST hours to the minimum standard of 48 hours. Michelle accrued 30 ESST hours by the end of the first year of her employment. These 30 hours carried over into the second year, during which she accrued an additional 48 hours. She did not use any of these accrued hours. In the third year, Michelle accrues an additional two ESST hours



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before stopping at a limit of 80 hours (30 + 48 + 2). Because the employer capped the number of ESST hours at 80, she must use some accrued hours in her “bank” of 80 hours before accruing more ESST hours.

**Do ESST hours accrue on overtime hours worked?**

Yes. ESST hours accrue on all hours worked, including overtime hours.

**Do hours accrue when the employee is not working (on vacation or out sick)?**

No. The law does not require ESST hours to accrue when an employee is not working. AbbeyCare employees will not accrue hours while not working.

**How frequently are ESST hours calculated?**

ESST hours are calculated and recorded at the same frequency as all other typical payroll practices (bi-weekly). Amounts accrued and available for use in addition to amounts used each pay period are listed on the employee’s earnings statement (also known as a paystub).

**Are ESST hours accrued in hour blocks or are employers required to give employees partial ESST hours accrued if they work less than 30 hours in a pay period?**

The ESST law does not require employers to credit employees for partial hours of ESST, such as a half-hour after 15 hours worked. Employers may credit ESST in 30-hour blocks, resulting in one hour of ESST. Employers may also choose to credit employees in partial hours of ESST, if they are earning ESST hours at a rate of at least one hour of ESST for every 30 hours worked.

*Sample scenarios*

- Michael works one five-hour shift per week, resulting in 10 hours of pay on his biweekly paycheck. It will take Michael three paychecks to accrue one hour of ESST. Michael’s employer can either wait three pay periods and then provide Michael with one hour of accrued ESST, or the employer can choose to provide Michael with .33 hours of ESST each pay period.



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- Wanda works 7.5 hours per day, five days a week, resulting in 75 hours on her biweekly paycheck. Wanda's employer prefers crediting partial ESST hours instead of waiting until full hours of ESST are earned. Wanda is credited with 2.5 hours of ESST on her biweekly paychecks.

**Can an employee accrue ESST hours with more than one employer at a time?**

Yes, ESST accrues at each employer for whom an employee works, and accrual amounts are tied to each employer individually.

**Do unused ESST hours carry over from year to year?**

Yes, AbbeyCare will carry over each employee's accrued and unused ESST hours to the following year (January 1<sup>st</sup>). Total accruals including carryover amounts will be capped at 80 hours of ESST.

*Sample scenario*

- Lee accrued 30 ESST hours by the end of the first year of employment. However, Lee did not use any of these ESST hours. Lee's employer must carry over those 30 hours into the following year. Lee may then accrue additional hours up to at least 48 in the second year.

**Payout or transfer of ESST hours**

- **Must unused ESST hours be paid out when an employee leaves their job?**

No. Employers **are not required** to pay out any accrued and unused ESST if an employee leaves their job, either voluntarily or involuntarily.

- **Are ESST hours restored if an employee returns to work for a former employer?**

- An employee who returns to work for the same employer **within 180 days** of separation is entitled to the ESST hours accrued before leaving the employer.

**When can employees start using accrued ESST hours?**

Employees may use earned sick and safe time as it is accrued.



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**Can an employer require an employee to provide notice to use ESST leave?**

An employer may require notice of up to seven days in advance when the need to use ESST is foreseeable. If the need is unforeseeable, an employer may require notice as soon as practicable. If an employer requires notice, it must have a written policy regarding notice procedures and must provide a written copy of the policy to employees; if the policy is not provided to employees, then an employer cannot deny use of ESST to an employee on the grounds that the employee did not follow the notice policy.

*Sample scenarios*

- Victor works for Crescent Laundry Inc., which typically requires its employees to provide at least 24 hours advance notice of any absence per written policy. Two hours before Victor's shift, his child develops stomach pains and Victor needs to take her to the doctor. Under these circumstances, Victor does not need to comply with Crescent Laundry's 24-hour advance notice policy; rather, he should provide Crescent Laundry with notice as soon as practicable of his ESST use.
- Peter owns O's Market and employs Abdi. O's Market has a written policy requiring seven days advance notice from its employees for sick and safe time use when the absence is foreseeable. Abdi schedules a preventative care check-up for his daughter several months in advance of the check-up but forgets to inform O's Market until two days before the appointment. Under these circumstances, the employer may deny Abdi's use of ESST for the appointment as its written policy meets ESST requirements and the ESST use was foreseeable.

**If an employee is using ESST for a foreseeable reason such as a yearly checkup, and does not notify their employer until the day before the appointment, can the employer deny the employee's use of ESST?**

An employer can require notice of intent to use ESST up to seven days in advance when ESST is used for a foreseeable reason. If the employer has a written policy regarding the procedures to provide notice up to seven days in advance and the employer has provided a copy of this written policy to the employee, the employer can deny the employee's request to use ESST if the employee did not follow the notice requirements in the policy.



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**Can an employer require an employee to provide documentation to use ESST leave?**

AbbeyCare will require an employee to provide reasonable documentation of ESST use only when more than three consecutive days of ESST are used. If the employee is unable to secure the requested documentation, in most cases the employee may supply the employer with a written statement indicating the employee is using or used ESST for a qualifying purpose.

*Sample scenario*

- Employee Kyle has used ESST for four consecutive days because of illness. As Kyle has used ESST for more than three consecutive days, Kyle's employer may condition approval of sick and safe time hours on requested documentation. However, if Kyle is unable to get documentation because he did not see a healthcare professional or he could not obtain the documentation from a healthcare professional in a reasonable timeframe or without added expense, Kyle can instead provide a written statement that he used the ESST leave for a qualifying purpose.

**Can employers require documentation from employees after they use ESST for more than three consecutive calendar days or more than three consecutive workdays?**

Employers may require documentation if an employee misses more than three consecutive days the employee is scheduled to work. AbbeyCare will require employees to provide such documentation.

**Must an employee specifically ask to use "sick and safe time" in order to use it?**

No, the law does not require that an employee specifically ask to use "sick and safe time" to use it.

**Can an employer require an employee to provide specific details about the reason for using sick and safe time?**

No, the law does not require that an employee provide specific details about the reason for using sick and safe time, including details related to the employee's or their family member's medical condition.



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**Does an employer's PTO policy meet the requirements of the ESST law if their employees can choose whether to use PTO for vacation, sick and safe time, or both?**

Yes. The PTO policy is as generous as what is required under the ESST law.

**Can an employee use ESST during times the employer is in operation but the employee is not scheduled to work?**

ESST is paid leave from work. If an employee **is not** scheduled to work, the ESST law **does not** require an employer to allow employees to use ESST. AbbeyCare employees **will not** be able to use ESST for shifts that they are not normally scheduled to work.

**Rates of pay**

**At what rate must ESST be paid?**

ESST must be paid at the same hourly rate as an employee earns from employment. Under no circumstances can the hourly rate be less than the applicable local or state minimum wage, whichever is higher.

**Is ESST paid at the wage rate at the time of accrual or the wage rate at the time ESST is used?**

ESST must be paid at the hourly rate of pay for the shift for which the leave is being used.

**If an employee has two or more different rates of pay for the same employer, what should the rate of pay be for sick and safe time hours used?**

The rate of pay for the employee's use of sick and safe time should be the rate of pay for the job or shift the employee was scheduled to work but for which ESST hours were used instead.

**If the shift for which an employee takes ESST leave would have brought them into overtime pay had they worked, is the employer responsible for paying an overtime rate for the ESST hours used for that shift?**

The ESST law does not require employers to pay an overtime rate if the hours taken as ESST leave would have brought the employee into overtime pay had the employee worked.