

**STATUTORY AVERAGE WEEKLY EARNINGS  
SCHEMES FOR COMPUTING INDEMNITY RATES  
FOR INJURIES from 7-1-96 to 12-31-10**

*TDI "rate" or PDI "rate" = **2/3 x SAWE** (STATUTORY AWE)*

With recent changes in L.C. § 4453(a) affecting computation of **AWE** for purposes of computing temporary disability indemnity (see article re: SAWW) and the prospects of further changes every January 1 hereafter, and taking into account L.C. § 4661.5, one of the biggest challenges of claims professionals is correctly calculating temporary disability indemnity rates at a given point in time.

The following table provides a breakdown of "minimum" and "maximum" **SAWE** (Statutory Average Weekly Earnings) schemes by date of interest.

For example, assume a DOI of 4-18-04 and real life average weekly earnings of \$1,500.00. For TDI as of 4-18-04, the "maximum" **SAWE** was \$1,092.00, yielding an initial weekly TDI rate of \$728.00. However, for any payment of TDI made on or after 7-1-06 (L.C. § 4661.5), the "maximum" **SAWE** would be \$1,260.00 yielding a then weekly TDI rate of \$840.00. And 5 months later, for any payment on or after 1-1-07, the **SAWE** would be \$1,322.50, yielding a weekly rate of \$881.67. Try our tables listed below. We hope you find them helpful.

**I. TEMPORARY DISABILITY INDEMNITY:**

- A.** L.C. § 4653 -  $2/3 \times \mathbf{AWE}$  (subject to statutory scheme)
  
- B.** REAL LIFE (RL) EARNINGS; L.C. § 4454; 8 CCR 10101.1(j)
  - 1. L.C. § 4453(c)(1)-(4)

2. **SAWE** L.C. § 4453(a)

**C. STATUTORY SCHEME OF AWE "MAXIMUMS" and "MINIMUMS" FOR DATE OF INJURY:**

**7-1-96 to 12-31-02** L.C. § 4453(a)(7) If RL \$735.00 or more: 735

If RL \$189.01 to \$735.00: RL

If RL \$126.00 to \$189.00: 189

If RL < \$126.00: RL x 1.5

L. C. §4453. Average annual earnings; Computation

(a) In computing average annual earnings for the purposes of temporary disability indemnity ... the average weekly earnings shall be taken at:

**(7)** ... not less than the lesser of one hundred eighty-nine dollars (\$189) or 1.5 times the employee's average weekly earnings from all employers, nor more than seven hundred thirty-five dollars (\$ 735), for injuries occurring on or after July 1, 1996.

**1-1-03 to 12-31-03** (a)(8) \$189.00 to \$903.00

**(8)** Not less than one hundred eighty-nine dollars (\$ 189), nor more than nine hundred three dollars (\$ 903), for injuries occurring on or after January 1, 2003.

**1-1-04 to 12-31-04** (a)(9) \$189.00 to \$1,092.00

**(9)** Not less than one hundred eighty-nine dollars (\$ 189), nor more than one thousand ninety-two dollars (\$ 1,092), for injuries occurring on or after January 1, 2004.

**1-1-05 to 12-31-06** (a)(10) \$189.00 to \$1,260.00

**(10)** Not less than one hundred eighty-nine dollars (\$ 189), nor more than one thousand two hundred sixty dollars (\$ 1,260), for injuries occurring on or after January 1, 2005. For injuries occurring on or after January 1, 2006, average weekly earnings shall be taken at not less than one hundred eighty-nine dollars (\$189), nor more than one thousand two hundred sixty dollars (\$ 1,260) or 1.5 times the state average weekly wage, whichever is greater.

<b>1-1-07 to 12-31-07</b>	(a)(10)	<u>\$198.37 to \$1,322.50</u>
<b>1-1-08 to 12-31-08</b>	(a)(10)	<u>\$206.17 to \$1,374.50</u>
<b>1-1-09 to 12-31-09</b>	(a)(10)	<u>\$215.55 to \$1,437.02</u>
<b>1-1-10 to 12-31-10</b>	(a)(10)	<u>\$222.00 to \$1,480.04</u>

**(10)**... Commencing on January 1, 2007, and each January 1 thereafter, the limits specified in this paragraph shall be increased by an amount equal to the percentage increase in the state average weekly wage as compared to the prior year. For purposes of this paragraph, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.

**D.** WAGE LOSS TD

$2/3 \times [\text{SAWE (subject to "maximums" above)} - \text{post-injury earnings}]$

See: Cal. W. C. Practice (CEB) §4.45

L.C. §4657

**E.** 4661.5

## II. PERMANENT DISABILITY INDEMNITY:

**A.** L.C. § 4658 -  $2/3 \times \text{AWE}$

L.C. § 4453(b)

**B.** STATUTORY SCHEME OF **AWE** "MAXIMUMS" AND "MINIMUMS"

1. 7-1-96 to 12-31-02

PD%	MIN	MAX
<15%	105	210
15 - 24.75	105	240
25 - 69.75	105	255
70 - 99.75	105	345

**L.C. §4453(b)** In computing average annual earnings for purposes of permanent partial disability indemnity ... the average weekly earnings shall be taken at:

**(2)** Not less than one hundred five dollars (\$ 105), nor more than two hundred ten dollars (\$ 210), for injuries occurring on or after January 1, 1984.

**(3)** When the final adjusted permanent disability rating of the injured employee is 15 percent or greater, but not more than 24.75 percent: ... (C) not less than one hundred five dollars (\$ 105), nor more than two hundred forty dollars (\$ 240), for injuries occurring on or after July 1, 1996.

**(5)** When the final adjusted permanent disability rating of the injured employee is 25 percent or greater but not more than 69.75 percent: ... (C) not less than one hundred five dollars (\$ 105), nor more than two hundred fifty-five dollars (\$ 255), for injuries occurring on or after July 1, 1996

(7) When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent:...(C) not less than one hundred five dollars (\$ 105), nor more than three hundred forty-five dollars (\$345), for injuries occurring on or after July 1, 1996

2.	2003	<70%	150.00	277.50
		70% or >	150.00	345.00

**L.C. § 4453 (b) (6)** When the final adjusted permanent disability rating of the injured employee is less than 70 percent: (A) not less than one hundred fifty dollars (\$ 150), nor more than two hundred seventy-seven dollars and fifty cents (\$ 277.50), for injuries occurring on or after January 1, 2003

(7) When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent: ... (D) not less than one hundred fifty dollars (\$ 150), nor more than three hundred forty-five dollars (\$ 345), for injuries occurring on or after January 1, 2003

**L.C. § 4453(b)(6)** When the final adjusted permanent disability rating of the injured employee is less than 70 percent: ... (B) not less than one hundred fifty-seven dollars and fifty cents (\$ 157.50), nor more than three hundred dollars (\$ 300), for injuries occurring on or after January 1, 2004;

(7) When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent: ... (E) not less than one hundred fifty-seven dollars and fifty cents (\$ 157.50), nor more than three hundred seventy-five dollars (\$ 375), for injuries occurring on or after January 1, 2004;

**L.C. § 4453 (b)(6)** When the final adjusted permanent disability rating of the injured employee is less than 70 percent: ... (C) not less than one hundred fifty-seven dollars and fifty cents (\$ 157.50), nor more than three hundred thirty dollars (\$ 330), for injuries occurring on or after January 1, 2005

(7) When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent: ... (F) not less than one hundred fifty-seven dollars and fifty cents (\$ 157.50), nor more than four hundred five dollars (\$ 405), for injuries occurring on or after January 1, 2005

**L.C. § 4453(b)(6)** When the final adjusted permanent disability rating of the injured employee is less than 70 percent: ... (D) not less than one hundred ninety-five dollars (\$ 195), nor more than three hundred forty-five dollars (\$ 345), for injuries occurring on or after January 1, 2006.

**(7)** When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent: ... (G) not less than one hundred ninety-five dollars (\$ 195), nor more than four hundred five dollars (\$ 405), for injuries occurring on or after January 1, 2006.

### **III. NUMBER OF WEEKLY PAYMENTS:**

- L.C. § 4658 (b) Injuries 1-1-92 to 12-31-02
- (c) Injuries during 2004
- (d) Injuries on or after 1-1-05