

# Putting a cap on vacation time accrual

**Q. Our company's vacation policy provides that once an employee earns 240 hours (or 30 days) of vacation, no additional vacation may be accrued until the balance falls below that level. Is this legal?**

**A.** Unlike a "use it or lose it" policy, a vacation policy that places a cap on vacation pay accruals is generally permissible. The cap simply places a limit on the amount of vacation that an employee can accrue. Once a certain level or amount of accrued vacation is earned but not taken, employees can't accumulate any more vacation time until the balance falls below the cap.

The California labor commissioner has taken the position, however, that the time periods involved for taking vacation must be "reasonable." The worker must have at least nine months after the accrual of the vacation time to take the vacation before the cap is effective.

According to the labor commissioner, this "reasonable" time allows an employee to take fully vested vacation at times convenient to both the employee and employer without forcing an employer to accrue a large vacation pay (or time) liability.