

First Financial Employee Leasing, Inc.

Newsletter

June 2010

Issue 11

How Do I Know If I Have To Pay Overtime To An Employee?

According to the Department of Labor Wage & Hour enforcement, employees are classified as either "Exempt" (not required to pay overtime) or "Non-Exempt" (must be paid overtime). Many employers mistakenly believe that by paying an employee a salary, they are not required to pay that employee overtime. It is not HOW you pay your employees that exempts them from the payment of overtime-It is their JOB DUTIES.

It's a serious mistake to wrongly classify employees as exempt when they should be designated as hourly workers eligible for overtime. Wage and hour lawsuits can easily snowball and a case that should have cost a few hundred dollars in back overtime pay can quickly grow into thousands.

The most common exemptions are for white-collar employees who perform office or non-manual work: Executive, Administrative, Professional, Outside Salespersons and Computer Software Professionals. Here's a brief summary:

Executive Exemption (Minimum weekly salary of \$455) - Primary duty is management of the business or of a department. These employees regularly supervise 2 or more full-time employees, have the ability to hire or fire or whose suggestions and recommendations as to hiring, firing, advancement or other change of status of other employees are given particular weight. Employees with limited supervisory duties and who perform a significant amount of non-exempt work are usually not exempt, such as lead persons or assistant managers.

Administrative Exemption (minimum weekly salary of \$455) - Covers employees who perform non-manual management responsibilities that may not involve supervision but, may involve the management of assets or a specific management function. This includes Controllers, Purchasing agents, Human Resource Managers, loan officers in banks and requires the use of "discretion and independent judgment" with respect to matters of significance. In essence, these employees must be decision makers themselves or must develop reports and recommendations on which others rely in making decisions.

Professional Exemption (minimum weekly salary of \$455 per week – except doctors, lawyers and teachers) - Covers employees who are generally regarded as professional and who possess extended learning, advanced knowledge or a specialized degree, such as teachers, physicians, RNs, CPA's, Respiratory or Physical Therapists and Medical Technologists. Technicians (radiology, ultrasound, EKG, etc.) are almost always non-exempt.

Outside Sales Exemption (no salary basis) - Applies to employees who are engaged in sales activity outside of the workplace. Inside sales employees are by definition non-exempt.

Computer Software Professional (minimum weekly salary of \$455 or hourly rate of at least \$27.63) - Applies to employees in Information Technology, employed as IT Managers, Systems Analysts, programmers and software engineers, but does not include technicians.

Other overtime exemptions exist, but these are the most widely used. If you need assistance in determining the correct status, please contact the Human Resources Department at FFEL for assistance at (941) 625-7141 or (800) 625-7141 or log onto the Department of Labor FLSA Overtime Security Advisor at www.dol.gov/elaws/esa/flsa/overtime/menu.htm.

What Counts As Discretion & Independent Judgment?

- Evaluation and comparison of possible courses of outcomes and making a decision after the various possibilities have been considered.
- Judgment must be exercised with respect to "matters of significance" which refers to the level of importance or consequence of the work performed
 - Applies to decisions normally made by persons who formulate or participate in the forming of policy within their areas of responsibility; or
 - Who exercise authority within a wide range to commit their employer in substantial respects, financially or otherwise
- Decisions and recommendations may be reviewed at a higher level and upon occasion may be revised or reversed.
- Specifically look at whether the employee carries out major assignments in conducting the operations of the business, has the authority to commit the employer in matters of significant financial impact, can waive or deviate from established policies and procedures without prior approval, can negotiate and bind the company, is involved in planning long or short term business objectives and provides expert advice and consultation to management.

- **Accurate time records must be kept for 3 years**
- **Deductions from the salary of an exempt employee are allowed in only certain occasions**
- **Salary can only be reduced when permitted in full day increments**
- **Exempt employees must meet salary basis test AND job duties test**

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www.ffel.net

3745 Tamiami Trail

Pt. Charlotte, FL 33952

Tel: 941-625-7141 / 800-624-1805

Benefits Corner

FREE Prescription Drug Card

First Financial Employee Leasing, Inc. now offers a **FREE** discount prescription drug card through National Drug Card. This is NOT insurance.

The card can be used to save 10%-85% on brand-name and generic drugs. Each card covers your entire household, has no deductible and you do not need to file any claim forms-it's immediate!

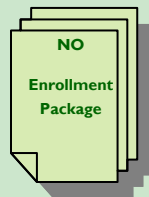
The card is accepted at over 58,000 pharmacies in the US including CVS, Walgreens, Wal-Mart, Target, K-Mart, Costco, Publix and many more.

Contact FFEL's Benefit Department to get your FREE National Drug Card and begin saving!

The Importance of Submitting FFEL Enrollment Packages



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YOUR \$

Did you know? In order for your worker to be covered under FFEL's workers' compensation policy, an FFEL enrollment package must be received for that employee prior to them commencing work.

Did you know? If a worker is injured on the job and FFEL has not received an enrollment package PRIOR to the injury - there is no coverage for that injury. That injury and the resulting costs for treatment of that injured worker, indemnity payments (lost wages) due that worker and any fines that might be assessed by the State for failure to properly insure your workers will be your responsibility.

DON'T take the chance and allow your employees to start working without first submitting a fully completed enrollment package to FFEL.

For your protection, FFEL Enrollment Packages must be received by FFEL before the employee begins work.

Recognizing and Preventing Substance Abuse

One in five workers say they have been put in danger or injured because of a co-workers substance abuse. To keep your workplace safe, you have to recognize alcohol abuse that affects job performance and take steps to correct the problem.

Performance issues indicating a substance abuse problem include:

- Inconsistent work quality
- Poor concentration
- Reduced productivity
- Increased absenteeism (particularly on Mondays)
- Extended lunch breaks
- Early departures
- Carelessness and mistakes
- Errors in judgment
- Risk-taking and disregard for safety

Of course, an employee who displays any of these symptoms doesn't necessarily have a substance abuse problem. There might be other explanations but, when an employee's performance deteriorates, especially when safety is an issue, it doesn't matter what the reason is, you have to take action.

Intervention and Prevention

When a supervisor or manager recognizes a possible problem or when a co-worker reports signs of impairment, the supervisor has to deal with the employee immediately and turn the situation around.

Here are some tips for successful interventions and the prevention of future problems.

- **Focus on job performance, not personal issues**-Use performance documentation or incident records to support your case.
- **Be clear and firm**-Talk about required standards of performance and consequences if expectations are not met.
- **Be supportive, identify resources available** -Offer help in resolving performance issues. Refer the employee to the FFEL Employee Assistance Program (EAP) for FREE counseling.
- **Continue to monitor performance**-If job performance continues to decline, apply progressive discipline as necessary.