

FLSA Cheat Sheet

What Employers Are Covered?

Those with 2 or more employees

What Does the FLSA Provide?

- Requires employers to pay employees at a rate no less than the minimum wage
- Requires employers to pay employees an amount equal to 1.5 times their regular rate of pay for all hours worked over 40 in a given week, unless an exemption applies
- Restricts employers from employing minors in certain jobs and for longer than certain periods of time

What Is the “Regular Rate”?

The total amount of money earned by an employee in a particular workweek divided by the number of hours worked

When Is an Employee Exempt?

- *Executive:* must be primarily engaged in management, direct the work of 2 or more full-time employees and be authorized to affect the terms and conditions of other employees through hiring, firing, etc.
- *Administrative:* must be engaged in office or non-manual work related to general business operations and must use independent judgment and discretion with regard to significant matters
- *Professional:* must perform functions that require advanced knowledge in a field of science or learning
- *Computer:* must perform functions that require the application of systems analysis techniques, the design or development of computer systems or programs, or the creation or modification of programs relating to operating systems
- *Outside Sales:* must make sales and regularly work away from the employer's business
- *Note:* Employees must be paid the minimum amount specified in the statute and (except for the computer exemption) be paid on a salary basis for an exemption to apply

What Records Must Be Kept?

- Must maintain records of wages paid to non-exempt employees
- Must maintain records of hours worked by non-exempt employees
- Must keep records for 3 years

What are the Potential Penalties?

- Back pay
- Overtime pay
- Monetary fines
- Punitive damages
- Injunctive relief
- Criminal penalties
- Attorneys' fees

Top FLSA Tips

- Job titles, job descriptions and the fact that an employee is paid on a salary basis aren't conclusive evidence that an employee is exempt – the above tests must be met
- Be aware that state laws may impose greater obligations
- Non-exempt employees cannot agree to receive less than time-and-a-half their wage rate for overtime work
- Keep accurate records for all employees
- FLSA compliance is key – class actions and substantial punitive damage awards have grown exponentially over the past few years