

Employment Law Corner

Monthly Report



FOLEY & FOLEY^{PC}
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March 2024

March Updates

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Employment Law Corner:

Overtime Odyssey: A Trek Through FLSA Calculations

Welcome, fellow travelers! Today, we embark on an exciting journey through the multiverse of overtime calculations under the Fair Labor Standards Act (FLSA). So, climb aboard, buckle up, and with the speed of the USS Prometheus (shoutout to Star Trek), let's blast into the world of pay rates, bonuses, and overtime!

The FLSA: A Brief Overview

The Fair Labor Standards Act (FLSA) is a U.S. labor law that establishes minimum wage, overtime pay, wage recordkeeping requirements, and youth employment standards. Like a blackhole, you cannot escape it, so it's best to immerse yourself in it.

The Magic Number?

You may be thinking NCC-1701, but you'd be mistaken. Under the FLSA, overtime pay is required for any hours worked over **40** in a workweek. This isn't a suggestion, it's mandatory. Like when Spock gives you the mind meld, you must comply. So, if your employee is clocking in more than 40 hours this week, their paycheck must reflect that extra effort with the proper time and one-half compensation.

Regular Rate of Pay: Know It, and Live Long and Prosper

Overtime is paid at a rate of one and a half times the employee's "**regular rate of pay**". Sounds easy enough, but sometimes that regular rate of pay must account for other rates of pay and certain bonuses earned by the employee in the pay period, and that can get tricky.

Different Pay Rates: The Plot Thickens

If an employee is paid at different rates for different types of work in a workweek, calculating overtime can seem like fixing a warp interstellar drive, but we have got you covered. **The overtime rate is based on the weighted average of the different pay rates.** For example: Take employee's rate 1 and multiply it by the hours worked at rate 1 to get Rate

1 wages. Then take rate 2 and multiply it by the number of hours worked at rate 2 and get the Rate 2 wages. Add the Rate 1 wages to the Rate 2 wages and divide by 40. This will give you the weighted average or average rate of pay for that workweek. The employee receives one-half that average rate of pay for each overtime hour worked in the pay period.

Bonuses and Overtime: A Happy Marriage

Here's where things get interesting. If you receive a non-discretionary bonus (a bonus based on meeting certain criteria), that bonus is included in the calculation of the regular rate of pay. So, the regular rate of pay, and in turn the overtime pay, increases due to the forced inclusion of the bonus. Exciting right? Like locating sparkling nebulae after a supernova! You get it.

Conclusion: The End of the Odyssey

Navigating the twists and turns of overtime calculations under the FLSA is not always easy. You may encounter some hostile alien species along the way. Just remember, we can help.

Safe travels on your overtime odyssey. For added assurance that your organization complies with federal and state laws, we have easy-to-use fixed fee services. Our **FLSA Timekeeping Audit** will flag risks before the state or feds do. **Contact us.**

Who We Are:

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That is easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business: **Foley & Foley PC attorneys specialize in Employment and Labor Law in the Public and Private Sectors (foleylawpractice.com).**

Meet Timothy Kenneally

Attorney Tim Kenneally has practiced law with Foley & Foley PC since 2008 and has been a litigator his entire career. Attorney Kenneally's practice involves the representation of clients in matters involving employment and labor law, data security/personal information protection, insurance, contracts and litigation.



For more info, check out his bio [here!](#)

Contact Us



www.foleylawpractice.com

info@foleylawpractice.com

(844) 204-0505