

Propel HR NEWSLETTER

HUMAN RESOURCES

September 2004

THE NEW "WHITE COLLAR" RULES

The Fair Labor and Standards Act (FLSA) amends "exempt" and "non-exempt" standards.

Since its enactment in 1938, the Fair Labor and Standards Act ("FLSA") has included a complete exemption from its minimum wage and overtime requirements for employees employed in bona fide executive, administrative, professional, or outside sales capacity. New requirements of meeting "exempt status" took affect August 23, 2004, called the "white collar" rules. To ensure your employees are properly classified, please take a few moments to consider your employees and the guidelines of the flowchart below.

Step 1: Salary Basis Test

Is the employee paid at least \$455 per week (\$23,660 per annum)*, not subject to reduction due to variations in quantity/ quality of work performed?

* The computer professional exemption has a salary basis test of \$455 per week or \$27.63 per hour. The outside sales exemption is not subject to the salary basis test.

⇓
If no, employee is non-exempt.

⇒ If Yes



Step 2: Exemption Applicability

Does the employee perform any of the following types of jobs?

Executive - management is the employee's primary duty
Administrative - employee performing non-manual office work
Professional/creative - employee whose work requires highly advanced knowledge/education; creative and artistic professional
Computer professional - employee involved in design or application of computers and related systems.
Outside sales - employee making sales or taking orders which influence sales outside of the employer's premises.

⇓
If no, employee is non-exempt.

What does "exempt" and "non-exempt" mean? See page 2.

⇒ If Yes



Step 3: Job Analysis

A thorough analysis of the job duties must be performed to determine exempt status. An exempt position must pass both the salary and the duties tests.

Propel HR will assist its clients in determining exempt or non-exempt status for any positions in question. Please contact Propel HR at (864)271-7611 if you have reached Step 3: Job Analysis with any of your employee's positions.

GIVE ME A BREAK!

Many employers ask, "Do I have to give my employees a break?" The Fair Labor Standards Act (FLSA) does not require breaks or meal periods to be given to workers. South Carolina, North Carolina and Georgia do not have laws requiring breaks or meal time; therefore, this benefit is a matter of agreement between the employer and the employee.

EXEMPT OR NON-EXEMPT: WHAT'S THE DIFFERENCE?

The Department of Labor, in the Fair Labor and Standards Act (FLSA), requires minimum wage and overtime pay for workers unless the position meets requirements to make it "exempt." "Non-exempt" means the overtime provisions and minimum wage requirements apply; "exempt" means the position is exempt from the overtime or minimum wage provisions or both.

TEST YOUR WAGE AND LABOR LAW KNOWLEDGE*: TRUE OR FALSE?

- ___1) If I terminate an employee, I have to pay him/her all wages due that same day.
- ___2) I have to provide my employees with sick time, but not vacation time.
- ___3) I cannot decrease the rate of pay for one of my employees.
- ___4) If I have less than 10 employees, recordkeeping requirements under the Dept. of Labor, do not apply to me.
- ___5) I have to pay extra or premium pay for weekend or night work.

How did you do? If you answered "False" for all the questions above you are correct and very knowledgeable of federal and state wage and hour laws. Good for you! If you answered "True" to some of the questions above, you may simply have confused a company practice for a required law. There are many wage and labor issues defined by employers in their company policies that are not required by law. If we are not careful, we may make decisions based on someone else's past practice that may be faulty or not even required. Propel HR is here to help you determine the best practices for your industry and environment based on law and policy. If you have questions regarding wage payments and labor law compliance, contact the Propel HR office at 864-271-7611.

* Based on federal and state laws for South Carolina, Georgia, North Carolina.

SPEAKING OF COMPANY POLICY...

Propel HR has a master policy manual for all its' employees. We are in the process of contacting each client to see if there are client specific policies now in place. If there are, we are reviewing and combining such policies into a manual for each employee to have. If the company does not have set policies we are working to develop what is needed or simply issue the master policy as is, to all employees. We are in compliance with the recent state law changes for S.C. regarding "employment-at-will" language. Be considering what issues are important to your company and you will be contacted soon regarding the policy manuals for your employees.

PLEASE NOTE:

WHILE THESE GUIDELINES ARE IN EFFECT AS OF AUGUST 23, 2004, AS RECENT AS THE PRINTING OF THIS NEWSLETTER, THERE ARE RUMBLINGS ON CAPITIAL HILL THAT COULD MEAN ADDITIONAL CHANGES OR REFORM. WE WILL FOLLOW THIS CLOSELY FOR YOU AND KEEP YOU POSTED.

If you have any questions about anything in this newsletter, please contact Propel HR at 864-271-7611 or 800-446-6567.