Overtime Awareness Will Protect You and Your Employees

Will you be asking your employees to work overtime this year? Before you start setting those work schedules, make sure you fully understand the rules governing overtime pay.

Under the Fair Labor Standards Act (FLSA, administered by the U.S. Department of Labor’s Wage and Hour Division, hourly employees must be paid overtime at time-and-a-half for working more than 40 hours in a workweek. Overtime pay may not be waived by any agreement between you and your workers.

And over the past several years, the federal government has stepped up enforcement of wage and hour laws regarding overtime. Particular scrutiny falls on thousands of what the Department of Labor (DOL) considers “low-wage” businesses, such as day care centers, restaurants, janitorial services, health care facilities, motels and temp services.

Yet among small businesses, there remains a great deal of confusion about the rules of overtime pay. In general, federal wage and hour rules apply to any business with at least two employees and $500,000 in revenues. But there are exceptions as well as state guidelines that may also apply.

One potential pitfall involves salaries for workweeks more than 40 hours. According to DOL, a fixed salary for a regular workweek longer than 40 hours does not eliminate an employer’s obligation to pay overtime. Under Federal rules, however, employers can exempt certain positions from overtime regulations.

These “white collar” exemptions include executives and professionals who spend at least 80 percent of their time on duties involving their own independent discretion and not structured work. Federal law does not require extra pay for weekend or night work. Nor is there any provision for double-time pay. Both are matters of agreement between you and your employees.

Classifying your employees as either exempt or non-exempt is neither exact nor easy. The decision shouldn’t be based merely on job title or whether someone is hourly or salaried. Instead, use job duties as the main factor.

Overtime is just one of the many important FLSA topics covered at the Wage and Hour Division’s Web site, www.wagehour.dol.gov. You’ll also find valuable information on minimum wages; family and medical leave; definitions of full- and part-time workers, and those whose income includes tips; applicable exemptions; and a guide to applicable state-level requirements.

To learn more about small business employment issues, contact SCORE "Counselors to America's Small Business." These volunteer counselors provide free, confidential business counseling as well as training workshops to small business owners. The fall schedule of SCORE workshops is available through Community Education as well as on this website (SCORE-Rochester.org). For example, next Tuesday night, the topic will be “How to Finance a Small Business”.

Dean L. Swanson
South East Minnesota SCORE
c/o Rochester Area Chamber of Commerce
220 South Broadway, Suite 100  
Rochester, MN 55904  
*Dean is a volunteer SCORE Counselor.  

Web Links related to this article:  
For wage and hour questions:  www.wagehour.dol.gov