

Ernst Enterprises Newsletter



Employee 24/7 Access Drives Productivity

BUT, IT MAY LEAVE YOU ON THE HOOK FOR OVERTIME PAY!

WE ALL ARE CONNECTED TO WORK MORE THAN EVER BEFORE

We access work from home over the internet and finish work, check email, and do things that used to be done in the office. And with the new generation of smart phones (iPhones® Blackberry's® etc) we are connected and working continuously. And that can be a problem.

The Fair Labor Standards Act ("FLSA") requires employers to pay non-exempt employees for all hours worked and time and one-half for any hours worked over forty in a single work week (California requires overtime for work over 8 hour per day). Under the FLSA, hours worked consists of **all time an employee is "suffered or permitted to work,"** meaning **any** time the employee is performing services on behalf of the employer is time worked that requires the employee be paid. What this means for the employer is that even if you do not authorize the employee to work during non-working hours, if the employee works, and the employer knew or should have known about the work, the employee must be compensated for all hours worked, including overtime pay. "Should have known" could be as simple as receiving e-mails from an employee that were sent after business hours.

The FLSA does not permit employees to waive their rights under the law: this means an employee cannot volunteer his/her time, decline overtime pay, or agree to take time off at some other time in the future.

I have heard many employers say they will treat employees as "salaried" and therefore avoid the overtime requirement. The determination of an employee's FLSA status is based upon the employee's actual job duties, not an agreement with the employer or a "salaried" classification. ***Penalties for misclassifying an employee as exempt from overtime can be severe.***

Unfortunately, the way many of these issues surface is after an employee quits or is terminated. A claim for back-overtime can be made up to two years and in some cases three years after the employee leaves. Likewise, an existing employee can also file a claim for back overtime.

DO YOU HAVE ANY OF THESE WARNING SIGNS?

- A majority of your employees below the manager level are "salaried" and not eligible for overtime.
- You receive e-mail or work from your employee that was produced after hours.
- You don't have any policies regarding who has remote access to your computer systems.
- You don't track remote access users. (This has other implications regarding data security. To learn more take our computer [security survey](#).)
- Employees are complaining about work and not being paid for all they do.

These and other telltale signs can signal real trouble. Don't wait until you hear from the department of labor, or a plaintiff's attorney claiming back-overtime for one or worse yet a group of your employees.

We have the experience to assess your current situation and help you implement common sense policies and practices that allow you to maximize your employee's productivity and minimize the risk to you from these type of overtime claims. **Call Dawn Bremer now at 847/456-6334 to schedule a meeting to discuss your I.T. and overtime practices.**

To read more, see [NEWSLETTERS](#).

Follow us on our new [BLOG](#) to help you be a better manager.

If you are interested in having Mark present to your group or conduct a workshop for your company, see [SPEAKING ENGAGEMENTS](#) at our website.

What keeps entrepreneurs up at night? Take our newest [SURVEY](#) and see how you compare.

Sincerely,

Mark

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