

Annual Wage & Hour Roundup

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- Discussion of important legal trends and practical training for decision makers
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Disclaimer


This is a broad overview, it is **not** meant to be a comprehensive look at all wage & hour issues.



This one hour webinar is presented for illustrative purposes only and is not meant to constitute legal advice.

A Quick FFCRA Recap

- The **Families First Coronavirus Response Act** requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.
- Who is Covered? Who is Eligible?



The **Family First
Coronavirus Response
Act** (FFCRA)

Calculating FFCRA Pay

- Determine the reason for the leave
- Either \$511 per day and \$5,110 total or \$200 per day and \$2,000 total

Are your exempt employees still exempt?

The shift to remote work and other alternative work arrangements may affect the duties upon which an employee's exempt classification depends.



Most Common Exemptions

Executive Exemption

- Primary duty must be managing the enterprise or a department or subdivision of the enterprise. (*But see state law differences*)
- Must customarily and regularly direct the work of at least two employees
- Has the authority to hire or fire workers (or the employee's suggestions and recommendations as to hiring, firing or changing the status of other employees must be given particular weight).
- Must satisfy the minimum salary requirement.

Administrative Exemption

- Primary duty must be performing office or non-manual work that is directly related to the management or general business operations of the employer or the employer's customers.
- The employee's primary duty also must include the exercise of discretion and independent judgment with respect to matters of significance.
- Must satisfy the minimum salary requirement.

Professional Exemption

- The employee's primary duty must be to perform work requiring advanced knowledge in a field of science or learning that is customarily acquired by prolonged, specialized, intellectual instruction and study.
- Must satisfy the minimum salary requirement.

Potential Effects of Reduction in Force on Exemptions

- Bank Manager? (Executive)
- Insurance Adjuster? (Administrative)
- Lawyer? (Professional)



Effect of Pay Cuts On Exemptions?

- All exemptions must satisfy the salary threshold!
- Note the Highly Compensated Employee Exemption



Outside Sales and Remote Work

- Requirements
 - Primary duty must be making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer;
 - Must be customarily and regularly engaged away from the employer's place or places of business.
- Away from Employer's Place of Business?
 - According to the Dept of Labor: "An outside sales employee makes sales at the customer's place of business, or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet... **Any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business**, even though the employer is not in any formal sense the owner or tenant of the property.

Employer Obligations Related to Telework

- Mandatory or Optional
- Wage Compensation
- Exceptions



Employer Obligations Related to Telework

The Continuous Workday Rule

- Ensuring Flexibility
- Compensation
- Timekeeping Considerations



Employer Obligations Related to Telework

- Reimbursement of business expenses
 - General Rule
 - Exceptions



Employer Obligations Upon Return to Work

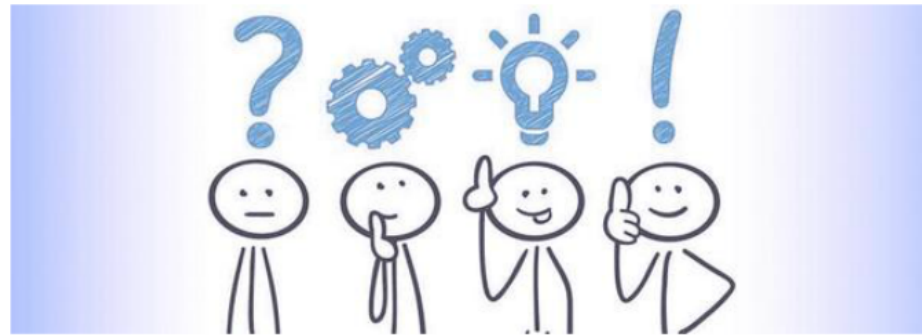
- Asking employees about symptoms
- Covid testing
 - Antibody test
 - Swab test
 - Temperature check



Employer Obligations Upon Return to Work

- Compensation for Testing
 - Principal Activity
 - Preliminary or Postliminary Activity
- Exceptions

Let's Talk About Some Frequently Asked Questions



Is my employee entitled to hazard pay for work performed during the pandemic?

Can employee salaries be reduced due to the pandemic or an economic slowdown?

Is an exempt, salaried executive, administrative, or professional employee able to perform non-exempt duties during the pandemic without a change in status?