



Overview of Payroll and Related Rules

HELPING TO PREVENT WAGE & HOUR CLAIMS





Introductions

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Ten-Thousand-Foot View



There are many variables each of you have within the business parameters you operate in



100% of all possible scenarios cannot be covered in today's agenda



Trust, but verify



If you have questions related to information covered in today's presentation, please reach out and ask!



General outline

- Tenure of an employee – things to contemplate to ensure best practice
- Leave Laws, including OFLA, FMLA, Oregon Sick Leave
- Time & Attendance reminders
- Payroll information, including brief definitions on taxes
- And more...



Let's get started

- The following slides cover the Federal & OR State key laws that employers must follow regarding labor, hours, wages, records and breaks.
- We break this down into how it affects the Life Cycle of your employee through:
 - Recruitment
 - Job Offers
 - Benefit Eligibility
 - Work Life
 - Taxes
 - Final Check



Key Laws

- Fair Labor Standards Act (FLSA)

[Wages and the Fair Labor Standards Act | U.S. Department of Labor \(dol.gov\)](#)

- ORS 653-Oregon Conditions of Employment
- ORS 652 – Oregon Hours, Wages, Records
- Administrative Rules – OAR Chapter 839-Division 20
- Employers must follow the law that most benefits the employee



LIFE CYCLE OF YOUR
EMPLOYEE





Life Cycle of an Employee

- Recruitment
- Job Offer
- Accepted offer and Hired
- Benefits Eligible
- Work Life
- Termination/Retirement/Resignation



Recruitment



Position Descriptions

First step in recruitment is developing the **position description**

Everything starts with a position description related to the job itself, its classification, its compensation etc.

Position descriptions need to be kept **current** to help ensure compliance with law (Equal pay act) as well as ensuring compensation for the position is accurate/current

Suggestion: Good practice to keep position descriptions current is to review/update annually in conjunction with the performance evaluation



Equal Pay Act

- **Assume** all are aware of the pay equity law passed in 2017?
- By December 31, 2018, employers in Oregon should have completed a **pay equity analysis** and made any corrective actions necessary
- In **2021** the minimum of doing an analysis every three years has been reached
- Pay equity law requires a more defined view on total compensation related to positions of similar **knowledge, skill, effort, responsibility** and **working conditions**



Classifications

- Employees whose jobs are governed by the Fair Labor Standards Act (FLSA) are classified **exempt** or **non-exempt**
- Most jobs are governed by the FLSA (FLSA Fact Sheet 17A)

https://www.dol.gov/whd/overtime/fs17a_overview.pdf

- **General rule** – if a job is governed by some other federal labor law, the FLSA does not apply (example: railroad workers (Railway Labor Act), many truck drivers (Motor Carriers Act))



Exempt vs. Non-exempt

- **Exempt:** not entitled to overtime pay
 - Hours worked are not tracked
- **Non-exempt:** entitled to overtime pay
 - Hours worked must be accurately tracked

Exempt

- With few exceptions, to be exempt an employee must
 - (a) In January of 2020 the minimum salary for a position to be classified as non-exempt was raised to **\$684 per week (\$35,568.00 annually) AND**
 - (b) be paid on a salary basis, **and** also
 - (c) perform exempt job duties.
- These requirements are outlined in the FLSA Regulations (U.S. Department of Labor)
- Most employees must meet **all** three "tests" to be exempt.



Exempt

- It is the **performance** of exempt job duties where the misclassification can occur
- There are a variety of *types* of positions and their associated job duties that also need to be considered – Executive Exemption – Administrative Exemption – Professional Exemption – Computer Employee Exemption – and more

Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA) | U.S. Department of Labor (dol.gov)



Mis-classification

- What happens if you have a position **misclassified** and a **BOLI** complaint arises?
- Mis-classification of a position as exempt creates a **liability for unpaid overtime**
- It is the **employers'** burden to prove exempt status of employees
- **Generally**, a **two-year statute of limitations** applies to the recovery of back pay
- In the case of **willful violations**, a **three-year statute of limitations** applies
- **Burden of proof** is on the employer to prove exempt status



Status



Full time



Part time




Temporary/
Seasonal



Independent
contractor



Volunteer



Full Time – Part Time

Full time

- Usually, 40 hours a week

Part time

- Usually less than 40 hours a week
- Other considerations to part time classification
 - Affordable Care Act (ACA)
 - What do you classify as part time



PERS

<https://www.oregon.gov/pers/Pages/index.aspx>

- Qualifying for PERS
 - New employee must complete **six months** of uninterrupted service
 - Work in a qualifying position
 - Be on payroll at beginning of first full pay period following six month waiting period
 - If an employee goes **over 600 hours worked in a 12 month period**, they are PERS eligible

PERS Employer Handbook:
[Employer-Manual.pdf \(oregon.gov\)](#)



Temporary/Seasonal

Definite start and end date to employment

PERS implications if go over 600 hours in a calendar year (after meeting a 6-month waiting period)

Potential benefits issue if they work beyond their status per ACA



Independent Contractor

- **1099** as apposed to a **W2** (for tax return purposes)
- The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the **result** of the work and **not what will be done and how it will be done**
- **ORS 670.600 – Independent Contractor defined**

<https://www.oregonlaws.org/ors/670.600>



Independent Contractor vs. Employee

INDEPENDENT CONTRACTOR

- Services offered to the general public
- Schedule and “need” determined by contract negotiated
- No job description or explanation on “how” the work will be done
- Work performed is paid through the terms of the contract negotiated and subject to a 1099 at the end of the year

EMPLOYEE

- Has a schedule
- Job description explains work to be performed
 - Employer dictates how it will be performed
- Set up in the payroll system to be paid for work performed



Penalty

- If an employee is **misclassified** as an independent contractor
 - **Potential costs include back taxes and interest, back wages, penalty wages and interest**
 - Additional civil penalties may be assessed if minimum wage and OT claims are involved



Volunteers

- Work must be performed for a public, religious or humanitarian service
- Without expectation of pay
- At employee's own initiative
- One Employee's own time
- Duties must be different from paid positions.
 - See OAR 839-020-0046 (3)



Economic Realities Test

Volunteer/Employee/Independent Contractor

1. The extent to which the work performed by the worker is an integral part of the alleged employer's business
2. The degree of control exercised by the alleged employer
3. The permanency of the relationship
4. The skill and initiative required to perform the work
5. The degree to which the worker's opportunity for profit and loss is determined by the alleged employer
6. The extent of the relative investments of the worker and alleged employer.

<https://www.oregon.gov/boli/employers/Pages/employee-or-independent-contractor.aspx>



Job Offer



What to include in a job offer letter

Position title

Starting salary offer

Reporting to

Outline of benefits

Start date

Offer is contingent upon

Status (Exempt-Non)

Expectations of first day

Schedule

Signature/return

A thin green vertical line is positioned on the left side of the slide, extending from the top towards the middle.

Job Offer Accepted; Employee is Hired



Hired, now what?

- W-4 (State and Federal)
- I-9
- Orientation
- Minimum wage



Filling out W-4

- First and foremost, please don't give tax advice!
- It is ok to share how the W-4 impacts the individuals' tax return since this information listed determines how much in taxes to take out of each pay check

Federal W4

Form W-4 (Rev. December 2020) Department of the Treasury Internal Revenue Service		Employee's Withholding Certificate ▶ Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. ▶ Give Form W-4 to your employer. ▶ Your withholding is subject to review by the IRS.		OMB No. 1545-0074 2021	
Step 1: Enter Personal Information	(a) First name and middle initial		Last name	(b) Social security number	
	Address		▶ Does your name match the name on your social security card? If not, to ensure you get credit for your earnings, contact SSA at 800-772-1213 or go to www.ssa.gov .		
	City or town, state, and ZIP code				
	(c) <input type="checkbox"/> Single or Married filing separately <input type="checkbox"/> Married filing jointly or Qualifying widow(er) <input type="checkbox"/> Head of household (Check only if you're unmarried and pay more than half the costs of keeping up a home for yourself and a qualifying individual.)				
<p>Complete Steps 2–4 ONLY if they apply to you; otherwise, skip to Step 5. See page 2 for more information on each step, who can claim exemption from withholding, when to use the estimator at www.irs.gov/W4App, and privacy.</p>					
Step 2: Multiple Jobs or Spouse Works	<p>Complete this step if you (1) hold more than one job at a time, or (2) are married filing jointly and your spouse also works. The correct amount of withholding depends on income earned from all of these jobs.</p> <p>Do only one of the following.</p> <p>(a) Use the estimator at www.irs.gov/W4App for most accurate withholding for this step (and Steps 3–4); or</p> <p>(b) Use the Multiple Jobs Worksheet on page 3 and enter the result in Step 4(c) below for roughly accurate withholding; or</p> <p>(c) If there are only two jobs total, you may check this box. Do the same on Form W-4 for the other job. This option is accurate for jobs with similar pay; otherwise, more tax than necessary may be withheld. ▶ <input type="checkbox"/></p>				



Step 3: Claim Dependents	<p>If your total income will be \$200,000 or less (\$400,000 or less if married filing jointly):</p> <p>Multiply the number of qualifying children under age 17 by \$2,000 ► \$ <input style="width: 100px;" type="text"/></p> <p>Multiply the number of other dependents by \$500 ► \$ <input style="width: 100px;" type="text"/></p> <p>Add the amounts above and enter the total here 3 \$ <input style="width: 100px;" type="text"/></p>		
Step 4 (optional): Other Adjustments	<p>(a) Other income (not from jobs). If you want tax withheld for other income you expect this year that won't have withholding, enter the amount of other income here. This may include interest, dividends, and retirement income</p>	4(a)	\$ <input style="width: 100px;" type="text"/>
	<p>(b) Deductions. If you expect to claim deductions other than the standard deduction and want to reduce your withholding, use the Deductions Worksheet on page 3 and enter the result here</p>	4(b)	\$ <input style="width: 100px;" type="text"/>
	<p>(c) Extra withholding. Enter any additional tax you want withheld each pay period</p>	4(c)	\$ <input style="width: 100px;" type="text"/>
Step 5: Sign Here	<p>Under penalties of perjury, I declare that this certificate, to the best of my knowledge and belief, is true, correct, and complete.</p> <p>► _____ ► _____</p> <p style="text-align: center;">Employee's signature (This form is not valid unless you sign it.) Date</p>		
Employers Only	Employer's name and address <input style="width: 100%; height: 30px;" type="text"/>	First date of employment <input style="width: 100%; height: 30px;" type="text"/>	Employer identification number (EIN) <input style="width: 100%; height: 30px;" type="text"/>

State W4


This W-4 deals specifically with Oregon State taxes. The information requested will be similar to the federal W2 but, it is combined and displayed differently.

Differences are:

Line # 2: Allowances.: Employee needs to use Worksheets A through C to complete.

Line # 3: Additional amount withheld specifically for STATE taxes.

Line # 4: Exemptions from STATE withholding only.

2021 Form OR-W-4 Oregon Department of Revenue  19612101010000

Page 1 of 4, 150-101-402 (Rev. 08-14-20, ver. 01)

Office use only

Oregon Employee's Withholding Statement and Exemption Certificate

First name and initial	Last name	Social Security number (SSN)	<input type="checkbox"/> Redetermination	
Address		City	State	ZIP code

Note: Your eligibility to claim a certain number of allowances or an exemption from withholding may be subject to review by the Oregon Department of Revenue. Your employer may be required to send a copy of this form to the department for review.

1. **Select one:** Single Married Married, but withholding at the higher single rate.
Note: Check the "Single" box if you're married and legally separated, or if your spouse is a nonresident alien.

2. **Allowances.** Total number of allowances you're claiming on line A4, B15, or C5. If you meet a qualification to skip the worksheets and you aren't exempt, enter -0-..... 2.

3. **Additional amount, if any, you want withheld from each paycheck**..... 3.

4. **Exemption from withholding.** I certify that my wages are exempt from withholding and I meet the conditions for exemption as stated on page 2 of the instructions. Complete **both** lines below:.....

- Enter the corresponding exemption code. (See instructions)..... 4a.
- Write "Exempt"..... 4b.

Sign here. Under penalty of false swearing, I declare that the information provided is true, correct, and complete.

Employee's signature (This form isn't valid unless signed.)	Date
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Employer use only.

Employer's Name	Federal employer identification number (FEIN)		
Employer's address	City	State	ZIP code



I9

- **Mandatory** document that all employees must complete
- Documents **identity** and **legally** being able to work in the USA
- There is a timeline to follow



I9

- Be sure to use most current version – can get that on the following website

USCIS Form I-9

- Completing an I9

<https://www.uscis.gov/i-9-central/complete-and-correct-form-i-9>

- Storing an I9

<https://www.uscis.gov/i-9-central/retain-store-form-i-9/storing-form-i-9>


Section 1

To be completed by employee

To be completed no later than by the first day of work with pay

Employers are liable for errors in completing this form

[Instructions](#) [Start Over](#) [Print](#)


Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 08/31/2019

▶ **START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name (Family Name) <input type="text"/>		First Name (Given Name) <input type="text"/>		Middle Initial <input type="text"/>	Other Last Names Used (if any) <input type="text"/>		
Address (Street Number and Name) <input type="text"/>			Apt. Number <input type="text"/>	City or Town <input type="text"/>		State <input type="text"/>	ZIP Code <input type="text"/>
Date of Birth (mm/dd/yyyy) <input type="text"/>	U.S. Social Security Number <input type="text"/>		Employee's E-mail Address <input type="text"/>		Employee's Telephone Number <input type="text"/>		

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following boxes):

<input type="checkbox"/> 1. A citizen of the United States <input type="text"/>
<input type="checkbox"/> 2. A noncitizen national of the United States (See instructions) <input type="text"/>
<input type="checkbox"/> 3. A lawful permanent resident <input type="text"/> (Alien Registration Number/USCIS Number): <input type="text"/>
<input type="checkbox"/> 4. An alien authorized to work <input type="text"/> until (expiration date, if applicable, mm/dd/yyyy): <input type="text"/> Some aliens may write "N/A" in the expiration date field. (See instructions)

*Aliens authorized to work must provide only one of the following document numbers to complete Form I-9:
An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.*

1. Alien Registration Number/USCIS Number: <input type="text"/>	QR Code - Section 1 Do Not Write in This Space
OR	
2. Form I-94 Admission Number: <input type="text"/>	
OR	
3. Foreign Passport Number: <input type="text"/>	
Country of Issuance: <input type="text"/>	

Signature of Employee <input type="text"/>	Today's Date (mm/dd/yyyy) <input type="text"/>
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Preparer/Translator

This section is to be completed if a preparer or translator was or was not utilized

Preparer and/or Translator Certification (check one): ?			
<input type="checkbox"/> I did not use a preparer or translator.		<input type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1.	
<i>(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</i>			
I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.			
Signature of Preparer or Translator ?			Today's Date (mm/dd/yyyy) ?
Last Name (Family Name) ?		First Name (Given Name) ?	
Address (Street Number and Name) ?		City or Town ?	State ? ZIP Code ?
Click to Finish			



- This section must be completed within three business days of first day of work
- Must physically examine the documents
- Documents must be provided within 72 hours of first day of hire
- You may or may not copy documents but be consistent

	Instructions Start Over Print	USCIS Form I-9 <small>OMB No. 1615-0047 Expires 08/31/2019</small>
Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services		
Section 2. Employer or Authorized Representative Review and Verification <small>(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")</small>		
Employee Info from Section 1 ?	Last Name (Family Name) ?	First Name (Given Name) ?
		M.I. ? Citizenship/Immigration Status ?
List A	OR	List B
Identity and Employment Authorization		AND
	List C	Employment Authorization
Document Title ?	Document Title ?	Document Title ?
Issuing Authority ?	Issuing Authority ?	Issuing Authority ?
Document Number ?	Document Number ?	Document Number ?
Expiration Date (if any)(mm/dd/yyyy) ?	Expiration Date (if any)(mm/dd/yyyy) ?	Expiration Date (if any)(mm/dd/yyyy) ?
Document Title ?	<div style="border: 1px solid black; padding: 5px;"> Additional Information ? </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px; font-size: small;"> USE CARE - OBSERVE & DO NOT WRITE IN THIS SPACE </div>	
Issuing Authority ?		
Document Number ?		
Expiration Date (if any)(mm/dd/yyyy) ?		
Document Title ?		
Issuing Authority ?		
Document Number ?		
Expiration Date (if any)(mm/dd/yyyy) ?		
Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.		
The employee's first day of employment (mm/dd/yyyy): ? _____ (See instructions for exemptions)		
Signature of Employer or Authorized Representative ?	Today's Date (mm/dd/yyyy) ?	Title of Employer or Authorized Representative ?
LastName of Employer or Authorized Representative ?	FirstName of Employer or Authorized Representative ?	Employer's Business or Organization Name ?

Employment Authorization	OR	AND	
1. U.S. Passport or U.S. Passport Card		1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph	
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card	
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the		5. U.S. Military card or draft record	1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
		6. Military dependent's ID card	
		7. U.S. Coast Guard Merchant Mariner Card	3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
		8. Native American tribal document	
		9. Driver's license issued by a Canadian government authority	5. U.S. Citizen ID Card (Form I-197)
			6. Identification Card for Use of Resident Citizen in the United States (Form I-179)

[Instructions](#)[Start Over](#)[Print](#)

Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 08/31/2019

Employee Name from Section 1:	Last Name (Family Name) ?	First Name (Given Name) ?	Middle Initial ?
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Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Name (if applicable) ?			B. Date of Rehire (if applicable)
Last Name (Family Name) ?	First Name (Given Name) ?	Middle Initial ?	Date (mm/dd/yyyy) ?

C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.

Document Title ?	Document Number ?	Expiration Date (if any) (mm/dd/yyyy) ?
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I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative ?	Today's Date (mm/dd/yyyy) ?	Name of Employer or Authorized Representative ?
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[Click to Finish](#)

Reverification and rehire



Hired – Orientation

- All time is paid (such as orientation)
- Best to not bring anyone in before all items on offer letter are completed successfully
- Be sure to have a true orientation and onboarding plan; include training plan



Minimum wage

- Upcoming increases that vary depending on region

- BOLI website has the Metro Urban Growth Boundary lookup


<https://www.oregon.gov/boli/whd/omw/pages/minimum-wage-rate-summary.aspx>

- Remember to keep your labor posters current

https://www.oregon.gov/boli/TA/Pages/T_Tabooks.aspx



Date	Standard	Portland Metro	Nonurban Counties
January 1, 2016	\$9.25	\$9.25	\$9.25
July 1, 2016	\$9.75	\$9.75	\$9.50
July 1, 2017	\$10.25	\$11.25	\$10.00
July 1, 2018	\$10.75	\$12.00	\$10.50
July 1, 2019	\$11.25	\$12.50	\$11.00
July 1, 2020	\$12.00	\$13.25	\$11.50
July 1, 2021	\$12.75	\$14.00	\$12.00
July 1, 2022	\$13.50	\$14.75	\$12.50
July 1, 2023	Adjusted annually based on the increase, if any, to the US City average Consumer Price Index for All Urban Consumers		



Are you a nonurban county?

- Nonurban counties

Baker	Klamath
Coos	Lake
Crook	Malheur
Curry	Morrow
Douglas	Sherman
Gilliam	Umatilla
Grant	Union
Harney	Wallowa
Jefferson	Wheeler



Benefits eligible




Benefits Eligible

- Keep in mind:
 - ACA Reporting
 - FMLA
 - OFLA
 - Oregon Sick Leave Law



ACA – Affordable Care Act

- Under **ACA**, you are required to offer benefits if you have **50 or more full time employees**. If under 50 employees, you can but are not required to offer benefits
- For ACA (offering of benefits) full time considered to be an **AVERAGE of 30 hours a week**
 - Don't get confused...
 - Full Time **includes your Full Time Equivalent**
- At the end of the year, remember to process your 1095-C's if you are subject to.
- More info can be found on the **IRS.gov** related to deadlines and how to file.
- **BOLI** also has information on their site



FMLA/OFLA

- Are you a covered employer? YES
- Are your **employees eligible**? MAYBE
- OFLA – **ALL** employers in Oregon are covered by OFLA BUT for the **employee** to be eligible, the employer must have 25+ employees
- FMLA – **ALL *public* employers** are covered by FMLA BUT for the employee to be eligible, the employer must have 50+ employees
- Must be in your handbooks that you are a covered employer (as listed)



Oregon Sick Leave Law

- **Employers > 10+** employees must implement a sick time policy that allows employees to **use** up to 40 hours of **paid** sick time per year.
- **Employers < 10** employees must implement a sick time policy that allows employees to **use** up to 40 hours of **unpaid** sick time per year.
- Employees **accrue** from first day of employment *OR* employer can front load 40 hours at beginning of year rather than track accruals
- Employee may carry over up to 40 hours of unused sick time
- Employer may adopt policy to cap accrual of sick at 80 hours or using no more than 40 hours sick time a year

BOLI : Sick time : For Workers : State of Oregon



Work Life

Work Life

Manual or Software?	Payroll
Time Tracking	Time Tracked
Payroll	Pay Periods
	Accuracy & Timeliness
	Overtime
	When employees have to be paid



Pay Periods

- The period of time associated with the upcoming paycheck
 - Example: 11/1-11/15, paid on 11/25

Work Week

- When your week begins and ends
 - There are many different variations out there. The typical one is Sunday through Saturday

Why is this distinction important?


- The need for calculating overtime.
 - Even if the time crosses a pay period but is within the same work week, the employee is eligible for overtime on their next paycheck

Pay Periods vs. Work Week



Time Sheets

- Be sure to accurately reflect hours worked
- **Clock in and out?**
 - **Why?** – Audit trail! If all non-exempt employees clocked in for the day, out for lunch, in from lunch and out for the day all information is captured
 - **Why not?** – It's restrictive. At a minimum, have non-exempt employees' clock in and out for the day. Lunches can be on the honor system with the ability to implement clocking in/out across the board at any time
- **Exempt** – don't track time



Accuracy/Timeliness

- **Accurate, timely** records are key to ensuring everyone is paid correctly
- Encourage/require your staff to complete everything within the same pay period
 - A time off request from July sent in for processing in October is not acceptable for accurate tracking and payment.
- Supervisor approvals (both PTO and timecards) must be timely as well to ensure that payroll is processing the correct information based on your knowledge of what occurred within your teams



Breaks

- **Unless exempt, Oregon law requires** employers to provide meal and rest periods to employees.
- Fair Labor Standards Act (FLSA) also covers most Oregon employees and does not require meal or rest periods, employers must comply with the law that is **most beneficial** to the employee—in this case, the Oregon law.



Meal Period - Breaks

- The typical adult employee whose work period is eight hours long is entitled to receive at least a 30-minute unpaid meal period and two paid ten-minute rest breaks
- Meal period “timing”
 - If the work period is at least six hours but less than seven hours:
 - The meal period is to be taken after the second hour worked and prior to the commencement of the fifth hour worked.
 - EXAMPLE: Joe work period is from 8 am to 3:00 pm (7 hrs.) . Joe would need to take his meal sometime between 10 am and before noon.



Meal Period - Breaks

- If the work period is **more than seven hours**.
 - The meal period is to be taken after the third hour worked and prior to the commencement sixth hour worked.
 - Example: Joe worked period is from 8 am to 4 pm (8 hrs.). Joe would need to take his meal sometime between 11 am and 1 pm.

https://www.oregon.gov/boli/ta/pages/t_faq_meal_and_rest_period_rules.aspx



Overtime

- FLSA guidelines required **overtime** be paid after **40 in a workweek**
- Some employers may have other rules on this including paying overtime after 8 hours in a day
 - Both are applicable practices so as long as the practice is within the laws criteria

Do you have a **Collective Bargaining agreement?** – check that for additional clarification



Is it “Off the Clock”?

- Many FLSA lawsuits have involved employers **failing to include time spent by employees performing work activities outside of their normal shifts.**
- Examples;
 - Employees **"come early"** and start working before the official start time of their shifts.
 - **Pre-shift "roll calls"** are work time.
 - **Time spent setting up equipment** before the official start time of a shift is work time.
 - Some employees may similarly **"stay late"** after shifts performing work
 - Time spent by an employee **cleaning equipment** after the close of a shift is work time.
 - **Employee performing job-related activities "on the way home,"** as for example an assistant who drops off the day's mail at the post office



Overtime and things to be mindful of

- Training time
 - All training time is **work time** if it occurs during an employee's regular shift or if it is required by the employer.
- Meal Periods
 - Ex: An employee who “eats a sandwich at the desk” or is required to monitor a machine, is working through lunch
- Overtime is calculated at 1 ½ times the standard rate based on FLSA guidelines.
- Double check to see if you have a policy that differs from this (i.e. double time, etc.)



Overtime – How to calculate for non-exempt salaried

- **Non-exempt salaried** employees receiving a salary, the salary must be converted to an hourly rate for the purpose of calculating overtime
- Calculation of the employee's hourly rate must include things like:
 - Shift differentials, longevity pay, attendance pay, etc.
 - Further guidelines and explanations can be found on the FLSA website to help in understanding how to factor in these items for complex situations

Overtime – Rounding Practices.....

- Any rounding practices must not result, over a period of time, in failure to compensate an employee properly for all the time actually worked
 - 29 Code of Federal Regulation § 785.48

(b) "Rounding" practices. It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.

Consistency is key in the use of the "rounding practice". For example, for the quarter of an hour:

Example: 7:51 should round to 7:45

8:09 should round to 8:15

5:39 should round to 5:45

5:21 should round to 5:15



When Employees Have to be Paid

- Employees **must be paid at least once every 35 days**
- **Direct deposit** – can you make it mandatory?
 - **Short answer...yes**
 - **Long answer:** According to **ORS 652.110** employers **may require employees go on direct deposit without employee consent**. Previously, employers and employees had to agree to authorize direct deposit but since 2014, employers can have direct deposit as the default. **Employees must now proactively opt out of direct deposit**. Employees can opt out of direct deposit **verbally or in writing**. Employees unable or unwilling to go on direct deposit will likely notify their employer immediately.



Direct Deposit

- **Advantages of Direct Deposit**
 - No need to pass out paychecks or mail them to recipients and be at the mercy of the mail system
 - Shortens payroll processing window if all employees paychecks will be processed electronically



Federal

Medicare

Suta

State

Worker Benefit Fund (WBF)

Taxes

Social Security

Oregon Transit

Futa




Federal Taxes - Definitions

Federal – a tax levied by the IRS on the annual earnings of individuals, corporations, trusts and other legal entities

Social Security (Federal tax) – a tax used to pay for retirement, disability and survivorship benefits

Medicare (federal tax) – funds and covers expenses for the Medicare program

FUTA – Federal Unemployment Tax Act – revenue collected that is then allocated to state unemployment agencies and paid to unemployed workers who are eligible



State Taxes - Definitions

State – a direct tax levied by a state on your income

SUTA – State Unemployment Tax Act – revenue collected that is then allocated to fund unemployment benefits

Oregon Transit (State Tax) – Statewide wage tax used to finance investments and improvements in public transportation services, except for those involving light rail

WBF (State Tax)– Worker’s Benefit Fund – funds state programs that directly benefit injured workers and the employers who help make it possible for them to return to the workforce



Taxes – Who Pays What?

EMPLOYER (ON BEHALF OF THE EMPLOYEE)

- FUTA
- SUTA
- FICA
 - Medicare 1.65%
 - Social Security 6.2%
- WBF Fund 1.2 cents per hour
- Oregon Transit Tax (\$1 per \$1000)

EMPLOYEE

- Federal – based on W-4 elections
- State – based on W-4 elections
- FICA
 - Medicare 1.65%
 - Social Security 6.2%
- WBF Fund 1.2 cents per hour (possible to be paid for by the employer and recorded as earnings)
- Oregon Transit Tax (\$1 per \$1000)



Deductions

Employers may legally deduct the following from employee wages per **ORS 652.610**:

- Deductions required by law such as taxes or garnishments.
- Deductions that are for the employee's benefit such as health insurance premiums.
- Other deductions authorized by the employee in writing as long as the employer is not the ultimate recipient of the money, such as charitable contributions.
- Deductions authorized by a collective bargaining agreement to which the employer is a party.



More legal deductions

- Deductions for processing garnishments under **ORS 18.736** (fee cannot be collected if garnishment is 25% of disposable earnings).
- A deduction from a final paycheck for a cash loan to an employee, if the employee has voluntarily signed a loan agreement, and the loan was for the *employee's sole benefit*.
 - **ORS 18.385**: A deduction from the final paycheck for repayment of a loan may not exceed **25 percent** of the employee's disposable earnings **OR** the amount of disposable earnings in excess of **\$254** per week whichever is less. Disposable earnings are generally net earnings after tax deductions and family support withholdings.



Resignation/Termination/Retirement

- If you believe your situation may need assistance in one of these areas, please reach out!
 - **Pre-Loss Situation?** Contact **Spencer** Rockwell
 - **COBRA potential?** Contact **Shelly** Barker




Final check

- From a payroll standpoint, the biggest question that comes up is **“When is the last check due to the employee?”** The answer is different based on the situation.
 - Resigns **with less than 48 hours notice or no notice** – due within 5 days (not including weekends or holidays) **or** on next regular payday, whichever comes first
 - Resigns **with 48 hours notice or more** – due on the last day worked
 - Resigns **with 48 hours notice or more but last day worked is a weekend** – due on the following Monday
 - **Terminated** – check is due by end of business the following day



Final Paycheck Calculation Reminders

- If you offer sick, vacation or PTO, ensure you refer to your policy on how that is paid out.
 - Is there only a portion paid out (i.e. vacation, but not sick)?
- Benefit True Up – what does this mean?
 - Some employers that offer benefits collect from the employee after they have paid the carrier which means that employee would owe you for one more benefit period.
 - If you deduct from the employee prior to paying the carrier, you should have all benefits paid in full upon termination
 - As a rule of thumb, double check that all premiums due from the employee are collected on that last check



As a Special Note: If you haven't yet contacted your legislators and the Governor's office regarding the **American Recovery Act**, it's not too late! Please see our SDAO Weekly Update for tips on how to get your voice heard!



Contact information

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thank
you

The image features the words "thank you" written in a black, elegant cursive script. The text is centered and surrounded by four gold-colored illustrations of leafy branches. Two branches are positioned above the word "thank", and two are positioned below it, creating a decorative frame around the text. The entire composition is set against a plain white background and enclosed within a thin, gold-colored rectangular border.