

EMPLOYMENT LAW BRIEFING

HOLIDAY 2008

Special Holiday Issue: At the request of many of our clients, we are again publishing a special issue of **EMPLOYMENT LAW BRIEFING** to address workplace questions commonly arising at this time of year. As always, we welcome your suggestions. If you have a topic you would like to see addressed in this publication, please let us know. All of us at Whitford Law Offices LLC appreciate your support and extend our best wishes for the holiday season.

IRS Mileage Rate: The Internal Revenue Service has announced a decrease in the standard mileage rate used to calculate the deductible costs of operating an automobile for business purposes. Many employers use this rate to reimburse employees for work-related travel in personal vehicles. The current rate, increased by 8 cents last summer to 58.5 cents per mile, will be adjusted to 55 cents per mile as of January 1, 2009.

Overtime Adjustments for Bonus Payments: Many organizations have adopted a tradition of bonus payments during the holiday season. A bonus can be an effective way to reward a job well done and to encourage future efforts. Problems may arise, however, when a current or former employee does not receive an expected bonus. Additionally, if a bonus is considered “non-discretionary” under wage and hour regulations, any overtime payments during the period covered by the bonus must be recalculated to reflect the addition of the bonus amount to the regular rate of pay. To avoid unexpected liability, employers need a clear written policy describing the purpose of the bonus program, the period covered, the process for determining the fund from which bonuses are paid, eligibility requirements and the date of bonus distribution.

Holiday Closures & Exempt Employee Pay: In order to be exempt from overtime, employees must both have qualifying duties and be paid on a “bona fide” salary basis. An exempt employee, who works any part of the work day, must be paid for the entire day. Similarly, if an exempt employee works only part of a designated workweek due to an employer action, such as a shutdown between year-end holidays, the employee must be paid a full week’s salary. Employers with a 12:01 a.m. Sunday to midnight Saturday workweek, closing between Christmas and New Year’s Day this season, will need to pay two full weeks’ salary to exempt employees, off work during the closure, if any work is performed during the week of December 22 *and* on the Friday or Saturday following New Year’s Day.

Holiday Parties: At this time of year, we often get questions about the use of alcohol at employer-sponsored parties. Our recommendations: **1.** Avoid providing or paying for alcohol - use a no-host bar. **2.** Make party attendance *voluntary*. **3.** Provide food and non-alcoholic beverage options. **4.** Prohibit excessive alcohol consumption. **5.** Discourage drinking and driving; **6.** Observe behavior and arrange alternative transportation, as appropriate. **7.** Check alcohol policy language to ensure that party activities do not violate, and undermine, work rules.

Please contact our office if you have questions about the material in this newsletter, or other employment law compliance concerns.

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