

EMPLOYMENT LAW BRIEFING

HOLIDAY 2010

Special Holiday Issue: 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 over the last year and extend our best wishes for the holiday season.

Overtime Adjustments for Bonus Payments: Many organizations have adopted a tradition of bonus payments during the holiday season. Bonuses are 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 a bonus, when one is expected. 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, adopt 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.

IRS Mileage Rate: The Internal Revenue Service has announced a change 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, of fifty cents per mile, will be increased by one penny, to **fifty-one cents per mile** as of January 1, 2011.

Exempt Employee Pay & Holiday Closures: 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 not need to pay salary to exempt employees, off work during the closure, unless work is performed during the week of December 26 through New Years’ Day.

Holiday Parties: The use of alcohol at employer-sponsored parties prompts many questions each year. If your organization will be having a celebration this year, and alcohol will be consumed, we recommend these steps: **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 – consider providing portal-to-portal transportation **6.** Observe behavior and intervene, if necessary **7.** Check alcohol policy language to ensure that party activities do not violate, and undermine, published standards.

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

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Whitford Law Offices LLC

1819 D Street NE Salem, Oregon 97301 Phone 503-365-8700 FAX 503-365-8701
www.TheEmployerAdvocate.com