



Minimum Wage and Overtime Questions and Answers

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Note: *This publication is intended to provide general information about legal issues. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss laws of states other than Oklahoma. For advice about how these issues might apply to your individual situation, you should consult an attorney.*

Do I have to pay my farm employees minimum wage?

The Fair Labor Standards Act (FLSA) (29 USC § 201 *et seq.*) establishes rules for the federal minimum wage, and also contains provisions for the payment of overtime labor. At the time this report was developed, the FLSA-required minimum wage was \$5.15 per hour. However, the FLSA contains several exceptions for agriculture. The following employees do not have to be paid the federal minimum wage:

- Your spouse, children, parents, or other members of your immediate family
- Employees engaged in the range production of livestock
- Employees involved in aquaculture
- Hand-harvest laborers, if they meet all three of the following requirements:
 - 1) They are paid on a piece-rate basis, and the operation they are engaged in is generally recognized as paying its workers on a piece-rate basis.
 - 2) They commute daily from their place of residence to the farm on which they work.
 - 3) They were employed in agriculture less than 13 weeks during the preceding calendar year.
- Children working as hand-harvest laborers, if they meet all three of the following requirements:
 - 1) They are paid on a piece-rate basis, and are working in an operation that is generally recognized as paying its workers on a piece-rate basis.
 - 2) They are working on the same farm as their parent or guardian.

3) They are paid the same piece-rate for their work as employees who are over 16 years of age.

- Your farm used less than the “500 man-days per quarter” agricultural labor standard last year.

The Fair Labor Standards Act (29 USC § 201 *et seq.*) provides exemption from minimum wage and maximum hours (overtime) requirements for employees who work on agricultural operations that did not use more than 500 man-days of agricultural labor in any calendar quarter of the previous calendar year. A “man-day” of agricultural labor is a day on which one employee worked for an hour or more on agricultural tasks. For example, if an employee works for an hour or more on agricultural tasks on three different days, he/she has performed three man-days of labor. Two employees working on those days would have performed six man-days of labor. You do not need to count the work of immediate family members toward the standard.

A calendar quarter is one of the four segments of the year divided as January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Thus, a farming operation that did not use more than 500 man-days of agricultural labor during any calendar quarter of the last calendar year is eligible for the appropriate exemptions.

Do I have to pay my agricultural employees overtime?

The FLSA states that employees working more than 40 hours per week must be paid 1 1/2 times their normal hourly wage (“time and a half”). There are a number of exceptions to this rule for agriculture. All of the employees mentioned above as exempt from minimum wage requirements are also exempt from overtime requirements. In addition, the following employees are exempt from overtime requirements:

- Employees involved in the transportation (or preparation for transport) of fruits and/or vegetables from the farm to the place where they are first marketed or processed, as long as that place is within the borders of the state

- Workers involved with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not operated for profit (or that are operated on a sharecrop basis) when at least 90 percent of the water in such a system is used for agricultural purposes in the preceding calendar year
- Employees involved in forestry, so long as the number of employees with the operation does not exceed eight
- Employees involved in the ginning of cotton, if the following conditions are met:

- 1) The employee worked for no more than 14 weeks (the weeks need not be consecutive) in any period of 52 consecutive weeks.
- 2) The employees are paid 1 1/2 times their regular wage for hours worked in excess of 10 hours per day and in excess of 48 hours per workweek.

Legal References:

29 USC § 213 – The Fair Labor Standards Act, Exemptions

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