



WAGE & HOUR RED FLAGS



Overtime

- No non-exempt (*i.e.*, overtime eligible) employees
- All salaried employees treated as exempt, regardless of their duties
- Automatic deductions (*e.g.*, 30-60 minutes for lunch) for non-exempt employees
- No pay for on-call time, regardless of limitations
- Non-exempt employees use remote access technology (*e.g.*, iPhones, Blackberries, etc.) to conduct work from home, after hours
- Non-exempt employees eat lunch at their desks
- Everyone in Human Resources and Accounting is classified as exempt
- Non-exempt employees do not track their time or sign off on a weekly timecard
- Time off in lieu of overtime
- Employee treated as exempt due to employee perception of demotion when having to track his/her time
- Exempt employee who works more than 40 hours in a week given time off the following week
- Disciplining an exempt employee who works less than 40 hours in a week
- Partial day deductions from an exempt employee's paycheck



Paychecks

- Final paycheck not issued on the day employee is fired
- Paycheck deductions for amounts owed by the employee without written authorization
- Withholding a final paycheck pending an employee signing a separation agreement



Independent Contractors

- Contractor works exclusively for your company
- Pay individual, not a business or trade name
- Contractor must regularly report to someone
- Contractor is a former employee
- No written agreement exists between the parties



RESOURCES FOR WAGE & HOUR ISSUES

U.S. Department of Labor Wage and Hour Division:

■ <http://www.dol.gov/whd/>

■ Fact Sheets:

- Exemption for Executive, Administrative, Professional, Computer, and Outside Sales
http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.htm
- Hours Worked Under the FLSA:
<http://www.dol.gov/whd/regs/compliance/whdfs22.htm>
- Overtime Pay Requirements Under the FLSA:
<http://www.dol.gov/whd/regs/compliance/whdfs23.htm>
- Recordkeeping Requirements Under the FLSA:
<http://www.dol.gov/whd/regs/compliance/whdfs21.htm>

Idaho Wage and Hour:

- <http://labor.idaho.gov>



A. Dean Bennett
Associate

adbennett@hollandhart.com
208.383.3993