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Records to be Kept by Employers

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Reference Number: CTAS-1000

Employers are required to keep certain records in order to comply with the FLSA, as prescribed in 29 C.F.R. § 516. No particular order or format is required, but specified data and information must be kept for each employee who is subject to, and not exempt from, the FLSA's minimum wage and overtime provisions, as follows:

1. Name in full (as used for social security purposes) and the employee's identifying symbol or number if such is used in place of a name on any payroll records;
2. Home address, including zip code;
3. Date of birth, if under 19;
4. Sex and occupation;
5. Time of day and day of week on which the employee's workweek begins (if all workers have the same workweek beginning at the same time of day, a single notation for the whole work force may be used; if any employee or group of employees has a workweek beginning and ending at a different time, a separate notation may be kept for that employee or group);
6. (a) Regular hourly rate of pay for any week when overtime is worked or overtime compensation is due, (b) basis on which the employee's wages are paid (such as \$12.00 per hour; \$480 per week), and (c) amount and nature of each payment that is excluded from the regular rate;
7. Hours worked for each work day and the total hours worked for each workweek (with respect to employees on fixed schedules, the employer may maintain records showing the schedule of daily and weekly hours the employee normally works, and, in weeks when an employee adheres to such schedule, indicate by check mark, statement or other method such were the hours actually worked; in weeks in which more or less than the scheduled hours are worked, the exact number of hours worked each day and each week must be shown; as a practical matter, it is recommended that employee's and immediate supervisor's signatures be used instead of using check marks, as such would be better evidence should the records be relied on in an investigation by the Wage and Hour Division);
8. Total daily or weekly straight-time earnings (including that earned during overtime, but excluding overtime excess compensation);
9. Total overtime excess compensation;
10. Total additions to or deductions from wages paid each pay period, with a record, for each employee, of the dates, amounts, and nature of each such item;
11. Total wages paid each pay period; and
12. Date of payment and the pay period covered by each payment.

With respect to bona fide executive, administrative or professional employees (including academic administrative personnel or teachers in elementary or secondary schools), items six through 10 are not required. However, records must be maintained to reflect the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration, including fringe benefits and definitional prerequisites. This may be shown as a monthly or weekly amount with appropriate addenda such as "two weeks paid vacation," "plus hospitalization and insurance plan A," etc.

Additional records that must be kept for counties using comp time include:

1. Number of comp time hours earned each workweek (or work period) at the rate of time and one-half for each overtime hour worked;
2. Number of comp time hours used each workweek (or work period) by each employee;
3. Number of comp time hours compensated in cash, the total amount paid and the date of such payment; and
4. Any agreement or understanding with respect to earning and using comp time off, or if not in writing, a record of the existence of such an understanding.

For police and fire personnel using the § 7(k) rules, notation is required on the payroll records showing the

work period for each employee, the length of that period and its starting time. If all workers (or a group of workers) have the same length, beginning at the same time on the same day, a single notation of the time of day and beginning day of the work period will suffice for these workers.

The following records must be kept for at least three years:

1. Payroll records containing the above required information (from the last date of entry);
2. Collective bargaining agreements (with amendments and additions), benefit plans, trusts, employment contracts (when such are oral, written memoranda summarizing such agreements), certificates and notices; and
3. Total volume sales and purchase records, as maintained in the ordinary course of business.

These records must be maintained for at least two years:

1. Basic employment and earnings records, including all basic time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces;
2. Wage rate tables, including all tables or schedules of the employer that provide rates used in computing straight-time earnings, wages or salary, or overtime compensation, from their last effective date; and
3. Records of additions to or deductions from wages paid (from the date of last entry).

All records must be kept safe and accessible at the place or places of employment or at one or more established central recordkeeping offices where such records are customarily maintained, must be made available within 72 hours following notice from the administrator of the DOL, and must be open at any time to inspection and transcription by the administrator.

From time to time, notices prescribed by the Wage and Hour Division must be posted and kept posted in conspicuous places in every establishment where employees work so as to permit them to read notices on the way to or from their place of employment. An establishment must display the FLSA poster where the employees may readily see it. This poster briefly outlines the FLSA's basic requirements, and may be obtained free of charge from the nearest office of the Wage and Hour Division, or copies can be downloaded from the DOL Web site. The DOL will not automatically send these posters to you. It is up to the county to contact the DOL to obtain a poster.

Employers also may be required to submit reports that the DOL determines are needed to carry out its enforcement duties, and DOL may enter and inspect places of employment to determine whether the FLSA has been violated.

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