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Minimum Wage Provisions

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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Minimum Wage Provisions

Reference Number: CTAS-164

Every covered, non-exempt worker is entitled to a minimum wage of not less than \$7.25 per hour effective July 24, 2009.^[1] An employee may be paid on a weekly, monthly, or some other basis as long as the employee receives at least the minimum wage for each hour actually worked. Employees may be paid a salary in lieu of hourly compensation so long as the salary meets minimum wage and overtime requirements.

Although federal law allows certain employees such as disabled workers, apprentices, student workers, and messengers to be exempted from minimum wage requirements, Tennessee law requires employers to pay no less than the federal minimum wage of \$7.25 to all employees. T. C. A. § 50-2-114.

Deductions from Wages. Deductions may be made from wages for the employee's share of social security, as well as other federal, state, or local taxes, levies or assessments, and for voluntary payments to insurance and retirement plans, without affecting the minimum wage rate. No deductions can be made for any tax which the law requires to be borne by the employer.

Deductions made from wages for items considered primarily for the benefit or convenience of the employer are permitted only to the extent that they do not reduce the wages of employees below the minimum wage or cut into overtime compensation required by the FLSA for non-exempt employees. These items include deductions for damage to the employer's property, cash shortages, uniforms, and tools or equipment used in the employee's work.

If an employee is required to wear a uniform, the cost of the uniform is considered to be a business expense of the employer. If the employer requires the employee to bear the cost, it may not reduce the employee's wage below the minimum wage or cut into overtime compensation required by the FLSA. For example, if an employee who is subject to the statutory minimum wage of \$7.25 is paid an hourly wage of \$7.25, the employer may not make any deduction from the employee's wages (either regular wages or overtime wages) for the cost of the uniform, nor may the employer require the employee to purchase the uniform on his/her own. However, if the employee is paid \$8.00 an hour and works 40 hours in the workweek, the maximum amount the employer could legally deduct from the employee's wages would be \$30.00 ($\7.25×40 hours).

If an employee is required to purchase a uniform and equipment as a condition of employment, the employer is required to reimburse the employee, no later than the first regular payday, to the extent that the cost of the uniform and equipment cuts into the minimum wage or overtime compensation required by the FLSA. For example, if a police officer hired at an hourly rate of \$10.00 is required to purchase a \$65.00 uniform, \$50.00 leather goods and a \$200.00 revolver as a condition of employment, and works 80 hours in his or her first 14-day tour of duty, the \$315.00 of required expenses would have the effect of reducing the officer's compensation below minimum wage and would therefore violate the FLSA ($\$10.00 \times 80 = \$800.00 - \$315.00 = \485.00 or \$6.06 per hour). The employee would have to be paid the difference to bring the wages up to minimum wage ($\$7.25 - \$6.06 = \$1.19 \times 80 = \95.20). The \$95.20 must be added to the employee's next paycheck in order for the minimum wage requirements to be met.

There are methods of requiring employees to pay for their uniforms and equipment which are acceptable under the FLSA. The most common method is for the employer to make the initial purchase and prorate deductions from the employees' wages for reimbursement. Another method is by periodic payment of uniform allowances with the employer paying for the initial uniform and equipment. The predominant point to keep in mind is that the employee's wages can never be reduced below minimum wage, nor can the payment of overtime required by the FLSA be reduced, by the purchase of such required items.^[2]

If the employer is required by court order to pay monies from wages to a third party under garnishment, wage attachment, or bankruptcy proceedings, such deductions from wages are permissible so long as neither the employer nor anyone acting on the employer's behalf derives any profit or benefit from the transaction.^[3] Payments so made are considered equivalent to payments of wages to the employee. Further, the FLSA does not prohibit voluntary assignment of wages by the employee to a third party provided that neither the employer nor anyone acting on the employer's behalf directly or indirectly derives any profit or benefit from the transaction.

Detailed rules for deductions from wages can be found in 29 C.F.R. § 531, and are explained in FLSA Fact Sheet #16, Deductions From Wages For Uniforms and Other Facilities under the Fair Labor Standards Act.

1 See 29 U.S.C. § 206.

2 It is the DOL's position that non-voluntary deductions cannot be made from an employee's wages during any week the employee has worked overtime.

3 The requirements of Title III of the federal Consumer Credit Protection Act (the federal Wage Garnishment Law), 15 U.S.C. § 1671 *et seq.*, and the regulations found at 29 C.F.R. part 870, must be considered when making deductions of this type. That act contains restrictions on the amount of deductions from wages that may be made for payment of debts. State garnishment laws must also be followed.

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