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Whitepaper

Travel Time Pay

Summary:

Under the Fair Labor Standards Act (FLSA), the general rule is that employees should be compensated for all travel time unless it is overnight and outside regular work hours. This whitepaper will review when an employee's travel time is compensable and, in particular, address commuting, travel during the workday, overnight travel, private automobile use, and travel in company vehicles. This document is concerned exclusively with the FLSA and state law should also be considered.

For additional resources, please see page 3.

Important Notice:

The information provided herein is general in nature and designed to serve as a guide to understanding. These materials are not to be construed as the rendering of legal or management advice. If the reader has a specific need or problem, the services of a competent professional should be sought to address the particular situation.

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Overview

The Portal-to-Portal Act specifically excludes from hours of work time spent “walking, riding, or traveling to and from the place where employees perform their principal activities.” Hence, an employer under most circumstances is not required to pay for commuting or travel time at the beginning or end of the workday. Employers should also be aware that state and local laws may also apply.

Excluding normal commuting time, the general rule is that employees should be compensated for all travel unless it is overnight and outside regular working hours. Employees who travel overseas are not covered by the FLSA while working outside the USA.

Commuting

Time spent commuting between home and work generally is not considered hours worked unless payment for this time is required by company policy, contract, custom, or practice. There may be, however, specific instances when travel from home to work is considered hours worked, such as:

- A. The FLSA provides that if an employee who has gone home after completing his day’s work is subsequently called out at night to travel a *substantial distance* to perform an *emergency job* for one of his employer’s customers, all time spent on such travel is working time.
- B. Where an employee must stop on his or her way to work to pick up tools, supplies, etc. to bring to the work site, the time spent traveling from the place where the items were picked up to the work site is compensable. For example, if an office worker must pick up the company’s mail at the post office on the way to work, the employee’s time traveling from the post office to the work site is considered hours worked. Similarly, employees who are required to begin their workday at home by checking their computer to determine their work location may have to be compensated for the travel time from their home to their first assignment.
- C. The FLSA also addresses the situation where an employee who regularly works at a fixed location in one city is given a special one-day work assignment in another city. For example, if an employee who regularly works in Los Angeles is required to work a one-day assignment 120 miles away in San Diego, the employer must compensate the employee for the round-trip travel time between his or her primary work site and the work site of his or her one-day assignment. However, the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

The FLSA does specify that the special one-day assignment, even if it occurs infrequently, cannot be a normal, contemplated, or required part of the employee’s job. For example, if the employee’s job description or a collective bargaining agreement contemplates or requires the employee to periodically attend the training in another city, the employee’s travel time to attend the training need not be compensated.

- D. Where a company organizes a van pool, and certain employees are designated to transport others to and from work, the drivers' time will not be counted as hours worked if the arrangement is voluntarily. However, if the company designated certain employees as drivers and requires them to pick up others, the driving time will be considered compensable.

Travel All in a Day's Work

Time spent by an employee traveling as part of the employee's principal activity, such as travel from job site to job site during the workday, must be counted as hours worked. All time spent in travel away from the employee's home community for a special assignment in another city with a return home in the same day is considered compensable time.

Overnight Travel

Travel, which keeps an employee away from home overnight, is hours worked when it cuts across the employee's workday. Time an employee spends traveling during his or her normal working hours is compensable even if traveling on a non-working day like Saturday and Sunday. Overnight travel time outside the normal daily work schedule is not considered hours worked. Please see the chart attached for an illustration of the travel rules for employees.

Any work an employee performs while traveling must be counted as hours worked. Thus, time spent by an employee writing a memo or reviewing a file while traveling outside the regular workday is compensable.

Private Automobile Used in Travel Away from Home Community

If an employee is offered public transportation but requests permission to drive his or her car instead, the employer may count as hours worked either the time spent driving the car or the time the employee would have had to count as hours worked if the employee had used the public conveyance. For example, an employee who works in Denver must attend a conference in Santa Fe. The employer will pay the roundtrip airfare, but the employee voluntarily decides to drive a car. The employer must pay only for the time the employee would have spent in air travel to and from Santa Fe during his or her normal working hours.

Travel in Company Vehicles

As a general rule, when an employer allows its employees to drive company-owned vehicles to and from work, it need not compensate them for time spent commuting in those vehicles.

The employer must compensate an employee, however, for the time spent in a company-owned vehicle traveling between home and the first work site of the day, and between the last work site of the day and home if any of the following apply:

- Driving the company’s vehicle home or to the first work site is not voluntary. For example, the employer wants the employee to park the company-owned vehicle in a secure location at the end of the day, such as the employee’s home, instead of the employer’s parking lot.
- The vehicle is not the type of vehicle that someone would normally use for commuting. For example, the employer requires an employee to drive a large truck home.
- The employee incurs costs for driving the company-owned vehicle or parking it at the employee’s home. For example, the employee does not have a garage at home and must pay to park the vehicle overnight.
- The work sites are not in the normal commuting area of the employer’s establishment. For example, the distance from the last work site to the employee’s home is greater than the usual distance the employee must travel from work to home.

SEE Chart example at the end of this document.

Additional Resources on this Subject

A. SEMINARS

[Catalogue](#)

Keywords: wage and hour, pay

B. REFERENCE MATERIAL

Wage and Hour: Hours Worked

COMPENSATION FOR OVERNIGHT TRAVEL

Question: Tom, a nonexempt employee whose normal work hours are from 8:30 a.m. to 5:30 p.m., Monday through Friday, must travel to El Paso to meet with a customer. Tom takes a 5:00 p.m. flight on Friday and prepares his notes while en route. He arrives in El Paso that evening and after settling into his hotel room, he reviews the customer's file in preparation for his meeting. At 8:00 a.m. on Saturday, Tom meets with the customer. At 3:00 p.m. that afternoon he returns to Denver. How is Tom compensated?

