BACK TO THE BASICS OF PAYROLL

Presented by
Brenda JM Sabin, CBP
Key Concepts, LLC
Payroll is the reason people come to work!
What is Payroll Management

- It’s a big puzzle
  - Many pieces all fitting together
What is Payroll Management

- Getting it to all fit together can be tough!
NEW PEOPLE IN YOUR ORG:

- Independent Contractor or Employee?
  - IRS has rules/laws on this
    - ABC Test
    - Twenty Factor Test
    - SS8 Form
    - Need to be able to justify your decision
  - W9 and 1099MISC

- *NOTE: Vermont rules on IC’s for Unemployment and Workers compensation coverage are DIFFERENT than the Federal rules.
Employee – New Hire

- New Hire Reporting
  - Multi State considerations
  - Time Frames differ by state
    - Vermont – within 10 days of the first day of work performed
      - Online is best

- W4s
  - Invalid W4s – what are they?
  - Changing exemptions on W4 – rules?
  - Exempt from taxes (Feb 15th)
  - Send to IRS?
  - W5s?
Employee – New Hire

- SSN
  - For payroll purposes
  - For I9 purposes
  - [http://www.ssa.gov/employer/ssnv.htm](http://www.ssa.gov/employer/ssnv.htm)

- I9s
  - New
  - How long to keep?
  - [http://www.uscis.gov/i-9](http://www.uscis.gov/i-9)
FLSA

- **Governs:**
  - Minimum Wage
    - Tipped employees
  - Record keeping
    - What records do you need to keep?
  - Exempt vs Non exempt
    - Overtime
  - Child Labor Laws
  - Equal Pay

- Federal: $7.25
- Vermont: $8.15
FLSA Does not govern/regulate:

- Vacation, holiday, severance or sick pay (State Laws)
- Premium/shift pays
- Pay raises or fringe benefits
- Discharge notices or reasons for
- Meal or rest periods (state laws)

**VT:** An employer shall provide an employee with reasonable opportunities during work periods to eat and to use toilet facilities in order to protect the health and hygiene of the employee.  
*Title 21, Chapter 5, § 304*

**Nursing Mothers:** For an employee who is a nursing mother, the employer must for 3 years after the birth of a child, provide reasonable time, either compensated or uncompensated, throughout the day to express breast milk. An employer may be exempted from this requirement if it would substantially disrupt the employer’s operations.  
*Title 21, Chapter 5 - § 303, 304, 305*
Exempt vs Non-exempt

- Minimum Salary*
  - Except for Outside Sales
- Duties Test
- Not covered by FLSA minimum wage and overtime laws

- Paid hourly OR salary
- Any hours over 40 HRS WORKED have to be paid overtime
- Protected by FLSA minimum wage and OT laws
Exempt – must meet both criteria to be classified as exempt

- **Minimum Salary**
  - $455 a week
  - No pro-rating

- **Duties Tests** – White Collar Exemption Tests
  - Executive Test
  - Professional Test
    - Creative
    - Computer
  - Administrative Test
  - Outside Sales
Non exempt employees

- Protected by FLSA

- Non exempt means they are eligible for Overtime compensation

- So how do you calculate overtime?
You must use the Regular Rate of pay not the hourly rate

- What is regular rate of pay?
  - Regular Rate = All straight time earnings divided by actual hours worked.
    - HUH??

- What is included in straight time earnings?
Example

- Employee is normally paid $10 an hour. She works 50 hours this week. She is also paid a bonus (non-discretionary) of $100.

- How much do you pay her?
Calculating...

- $10 \times 40 \text{ reg hours} = \$400$
- $15 \times 10 \text{ hours} = \$150$
- $100 \text{ bonus} = \$100$
- Total pay $\text{total} = \$650$

- Is this right?
No....

To calculate the “regular rate of pay”

Take the 50 hours worked X $10 per hour = $500
Add in the bonus of $100 = $600
Take the $600 divide by hours worked to get new REG rate of pay = $12.00

So you pay:
$10 X 50 reg hours = $500
10 hours of OT at new reg rate
  10 hrs X $6.00 (1/2 time) = $60
The bonus = $100
Total = $660
Discretionary vs. Non-Discretionary

- **Non-Discretionary**
  - Promise made to an individual employee for individual personal performance (e.g. attendance bonus, commissions, on-call pay, call back pay, etc.)

- **Discretionary**
  - No promise made
  - Could be based on other people’s performance (teams, company etc)
  - Example: Yearly bonus, referral bonus, holiday pay, sick pay, etc.

- Please note: referral bonus has created lots of discussions on whether they should be included in ot calculations or not – no definitive answer has come out of discussions yet.
Example: Non-discretionary

Ed worked 43 hours last week. Ed has an hourly rate of $9.00. Ed also received $50 bonus that was part of his employment agreement for assisting in the training of a new employee. What is Ed’s correct pay?

40 hrs X $9.00 = $360.00
3 hrs X $13.50 = $40.50
Bonus = $50.00
Total Due: $450.50

43 hours X $9.00 per hour = $387.00
Bonus = $50.00
Total Straight time $ = $437.00
Divided by actual hours worked (43)
$10.16 (RRP)
½ that amount (OT premium - $5.08)
X the number OT hrs (3)

$15.24
Total due ($437.00 = $15.24) $452.24
Weighted Average Overtime Calculations

\[
\begin{align*}
20 \text{ hrs. @ } $8.50 & = $170.00 \\
25 \text{ hrs. @ } $9.00 & = $225.00 \\
45 & = $395.00
\end{align*}
\]

SAME FORMULA:

\[
\begin{align*}
\text{Total straight time earnings} & = $395.00 \\
/ \text{hrs worked (45)} & = $8.77 \\
\frac{1}{2} \text{ that for OT premium} & = $4.38 \\
X \text{ OT hours (5)} & = $21.90 \\
\text{Total due:} & = $416.90
\end{align*}
\]
Compensatory Time

- Aka: COMP Time
- Non exempt – public sector employers only
- Employees cannot waive their rights to overtime
Other considerations in pay:

- How often do employees have to be paid?
  - Vermont - Title 21: Labor
    - Chapter 5: EMPLOYMENT PRACTICES
    - 21 V.S.A. § 342. Weekly payment of wages

- Lag time between end of pay period and pay-date

- What is a work week?

- Direct Deposits – can you mandate that?

- Can you reverse a direct deposit?
  - Direct Deposit Disclaimer:
    - "I understand that Company is authorized to make the appropriate correcting entries to my account if the amount deposited is in error."
  - Signatures on Joint accounts?
Other considerations

- Escheat Laws
- Garnishments
- Fringe Benefits Taxation
Thank you!

- Brenda JM Sabin, CBP
- Key Concepts, LLC
- [www.keyconceptsfinancialfreedom.com](http://www.keyconceptsfinancialfreedom.com) (tab for businesses)
- keyconcepts@accessvt.com

- Follow me on Facebook!
  - Key Concepts, LLC - Training for Human Resource and Payroll Professionals
  - [http://on.fb.me/o0EqbK](http://on.fb.me/o0EqbK)