

AUGUST 2004**Volume XIV, No. 8****NEW OVERTIME PAY REGULATIONS**

On August 23, 2004, all employers must implement new changes to the overtime laws. These changes probably mean more of your employees will qualify for overtime pay. Under the new rules, workers earning less than \$23,660 per year -- or \$455 per week -- are guaranteed overtime pay of time and one-half their regular rate of pay for all hours worked over 40 hours in a work week. Since these new regulations become effective this month, we are re-running this article from an earlier edition of our newsletter.

There are exemptions from overtime pay for employees who are bona fide executive, administrative, professional and outside sales employees. To qualify for an exemption, employees generally must meet certain tests regarding their job duties and be paid a salary not less than \$455 a week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the exemption.

The exemptions are:

Executive Employee Exemption:

- The employee must be paid a weekly salary of at least \$455;
- The employee's primary duty must be managing the enterprise or a managing a department;
- The employee must customarily and regularly direct the work of two or more full-time employees; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions as to the hiring/firing/promotion or other employees must be given particular weight.

Administrative Employee Exemption:

- The employee must be paid a weekly salary of at least \$455;
- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional Employee Exemption:

To qualify for the **learned professional** employee exemption, all of the following tests must be met:

- The employee must be paid a weekly salary of at least \$455;
- The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes the consistent exercise of discretion and judgement;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Computer Employee Exemption:

- The employee must be paid a weekly salary of at least \$455 or, if paid by the hour, at least \$27.63 an hour;
- The employee must be a computer systems analyst, computer programmer, software engineer or other similarly skilled worker; and
- The employee's primary duty must consist of certain computer-related capabilities.

Outside Sales Employee Exemption:

- The employee's primary duty must be making sales or obtaining orders or contracts for services for which a consideration will be paid by the client or customer; and
- The employee must be customarily and regularly engaged away from the employer's place or places of business.

Exemption for Business Owners:

Under a special rule for business owners, an employee who owns at least a 20 percent interest in the company in which he or she is employed, and who is actively engaged in its management, is considered a bona fide exempt employee and not subject to overtime payment.

Please review these new exemptions carefully – you may find that employees who were previously exempt from overtime under the old law will now be entitled to receive overtime. If you have any questions about these new exemptions, please call the FUBA offices and ask for Karen or Lance.

IS A NEW POSTER REQUIRED FOR THE NEW OVERTIME REGULATIONS?

While we are on the subject of the new overtime regulations, please be aware that **no new poster is required for these new regulations**. Do not be tricked into buying new and unnecessary posters. Every time a law changes, unscrupulous poster companies seize the opportunity to prey on unsuspecting small business owners by trying to scare them into buying expensive posters and compliance kits. Mail that you receive from these companies usually looks like an official government document and uses threatening language like "You Can be Fined Up to \$7,000!"

Please be assured that FUBA keeps you up to date on ALL required state and federal employment notices that you need to have posted at your workplace. When you join FUBA, you receive one free poster that contains all required notices, and it is guaranteed accurate for one year. After that, if any of the posters change, we let you know about it in this newsletter, and

we try to provide the new poster either free of charge

or at a very nominal charge. This is one of the most important benefits of being a FUBA member.

You are always free to order an updated poster from FUBA at any time. We only charge enough to cover our printing expenses. Please call the FUBA offices and ask for Louise if you wish to order a new poster.

FLORIDA HAS FIRST-EVER GAS TAX BREAK

During the recent legislative session, Florida lawmakers approved Florida's first-ever tax break on gasoline. The gas tax break begins 12:01 a.m. on August 1, 2004, and ends at midnight on August 31, 2004. During this time, the state tax normally levied on gas will be reduced by 8 cents per gallon.

The law requires all retail gas stations to pass on the tax reduction to their customers. [Please note: the tax break does not apply to diesel fuel.] The Florida Department of Revenue has mailed a Taxpayer Information Bulletin to all businesses affected by the tax break. If you did not get one but would like a copy, please call the FUBA offices and ask for Karen or Lance.

CORPORATE INCOME TAX UPDATE

Florida has adopted the Internal Revenue Code as it currently applies to corporate income tax, retroactive to January 1, 2004. This means that Florida will follow the computation of federal taxable income, including the 50 percent bonus depreciation provisions of the federal law adopted May 28, 2003.

An amended return may be filed by those taxpayers who filed their 2003 Florida corporate income tax returns anticipating that Florida would not fully adopt the bonus depreciation provisions. When filing an amended return, please mention "bonus depreciation" on the Form F-1120X (Amended Florida Corporate Income Tax Return) in order to facilitate processing of your return. If you have questions about whether this new provision applies to your corporation's 2003 tax return, please contact your local accountant or tax representative.