

Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation

in the United States

Employees in the United States work under laws that set employment standards in the workplace.

Employment standards determine minimum wages, overtime pay, legal wage deductions, unemployment compensation, and time off from work for family and medical leave.

Foreign workers, including workers without a valid work permit, have most of the same rights held by American citizens.

What is the minimum hourly wage?

The U.S. Congress sets the minimum wage. As of 1997, the minimum wage in the United States was \$5.15 per hour. Congress can increase the minimum wage. To find out if you are being paid the minimum wage, call 1-866-4USWAGE (1-866-487-9243).

You cannot make an agreement with your employer to be paid less than the minimum hourly wage.

Can youths be paid less than the minimum wage?

Yes. During the first 90 calendar days of work only, workers less than 20 years of age can be paid a minimum hourly wage of \$4.25.

An employer may not fire an adult worker in order to hire someone to work at the youth wage.



Should I be paid for all hours worked?

Yes. You must be paid for all the hours you work. Your employer may not require you to work "off the clock" or "for free."

Are farm workers paid the minimum wage?

Yes. Most farm workers are entitled to the minimum wage under federal law.



Exceptions to the minimum wage

Some workers do not have to be paid the minimum wage.

These workers include:

- employees that are immediate family members of the employer;
- managers, supervisors, and confidential employees;
- some student learners.

For more information on the minimum wage, contact the Wage and Hour Division at 1-866-4USWAGE (1-866-487-9243) or write to: Wage and Hour Division
Employment Standards Administration
200 Constitution Ave. N.W.
Washington, DC 20210

Many states also have minimum wage laws.

Some states have a minimum wage rate that is higher than the federal minimum wage.

If the state minimum wage is higher than the federal minimum wage, then you must be paid the state minimum wage.

Also, some states do not have a youth minimum wage.

For more information on state minimum wages, contact your local state employment agency or call 1-866-487-9243.

Do undocumented workers receive the minimum wage?

Yes. Employers cannot refuse to pay workers the minimum wage simply because the workers do not have valid work permits.

What is overtime pay?

Overtime pay is the additional pay per hour that a worker is entitled to be paid for all hours worked over 40 hours in a seven-day period.

How much overtime pay should I receive?

Overtime pay is one and one-half (1.5) times your hourly rate of pay.

Can I agree to give up the right to receive overtime pay?

No. Overtime pay cannot be waived.

Do farm workers have a right to receive overtime pay?

No. The law does not require that farm workers be paid overtime pay, but they do receive their normal rate of pay for each hour they work.

However, farm workers who do nonfarm work receive overtime pay.

Do undocumented workers receive overtime pay?

Yes. Your employer may not deny you overtime pay because you do not have a valid work permit.

How to figure out overtime pay

Let's say you make \$10 per hour and you worked 46 hours in seven days.

This means your regular pay equals \$400 (\$10 x 40 hours) plus overtime pay for six hours.

To calculate overtime pay for six hours:

- Step 1 - Multiply your hourly rate (\$10) times the overtime rate (1.5), to get your overtime hourly rate; $\$10 \times 1.5 = \15 .
- Step 2 - Multiply your overtime hourly rate (\$15) times your overtime hours (6) to get your overtime pay; $\$15 \times 6 = \90 .

Your overtime pay would be \$90.

- Step 3 - Add your regular pay (\$400) to your overtime pay (\$90) to get your total pay; $\$400 + \$90 = \$490$.

Piece rates

Say a worker made a total of \$500 for piece rate work over seven days, and worked 50 hours in those seven days.

To calculate overtime using the piece rate:

- Add up all your piece rate earnings for seven days (\$500).
- Divide your piece earnings (\$500) by the number of hours you worked in that seven days (50) to get your regular rate, $\$500 / 50 = \10 .

Now, follow steps 1 through 3 listed above using the numbers from this piece rate example.



What is a "deduction"?

When an employer takes money out of your paycheck, the money taken out is called a deduction.

What taxes can be deducted from a worker's earnings?

Deductions for taxes include:

- Federal income tax
- State income tax
- City or local income tax (if any)
- Social security taxes (may be listed as FICA on your check)

What expenses can be deducted from my earnings?

Your employer may deduct from your pay the reasonable cost of meals, housing, transportation, merchandise, and utilities provided to you by the employer.

If you owe money to a creditor, a court may order that some money be taken from your check to pay off that debt. This is called a wage garnishment.

Also, your employer may reduce your paycheck to repay any cash advances you were given.

What else should I know about deductions?

Employers cannot deduct some expenses if the deduction will lower the worker's wage below the minimum wage or if it reduces overtime pay.

Examples of these expenses include:

- Money shortages.
- Merchandise shortages.
- Uniforms and tools the employer requires, and the cost of caring for them.

Check all deductions

You should look at your paycheck carefully and make sure that all deductions are correct.

You should talk to your employer about deductions you believe are incorrect, contact the local state employment agency, or call 1-866-487-9243.

What happens if I lose my job?



If you lose your job for any reason other than misconduct, you may be able to collect unemployment compensation. Unemployment compensation is money paid to eligible workers when they lose their jobs to replace lost earnings, when they provide proof that they are looking for another job.

For more information, contact your local state employment office.

Unemployment compensation claims

Here are some tips about filing an unemployment compensation claim.

- Contact your local state unemployment agency as soon as possible after losing your job.
- Be prepared to answer questions about the addresses and dates of former employment.
- Give complete and correct information to avoid delays.
- Appeal promptly if you are denied unemployment compensation benefits.

Am I entitled to a paid vacation?

No. U.S. law does not require employers to provide workers with a paid vacation. If you qualify, you may be able to take off up to 12 weeks of unpaid leave under the Family Medical Leave Act, however.

What is the Family Medical Leave Act?

The Family Medical Leave Act (FMLA) is a law that allows certain employees to take leave from work for specific reasons.

Employees can take leave for:

- the birth and care of the employee's newborn child;
- adoption or foster care placement of a child;
- care of a child, spouse or parent with a serious health condition;
- the employee's serious health condition.

Who qualifies for FMLA leave?

To qualify for FMLA leave, employees must:

- work for a covered employer;
- need time off for a reason that is covered under the act;
- have worked at least 12 months with the current employer;
- have worked 1,250 hours or more in the year before requesting time off;
- work at a worksite with at least 50 employees or within 75 miles of 49 other employees of the same employer.

You may be able to receive 12 work weeks of unpaid leave for each 12 months of work with the same employer.

For more information, you should contact your state employment agency.

What is a serious health condition?

A serious health condition means an illness, injury, impairment, or mental or physical health condition that requires hospitalization for at least one night or continuing treatment by a health care provider.

For more information about the Family and Medical Leave Act, contact the Wage and Hour Division at 1-866-487-9243.

Local state employment offices provide many services.

Local state employment offices:

- accept unemployment compensation claims;
- have information about job openings and job training programs;
- help workers find jobs;
- have current labor market information;
- have information about agencies that help workers with disabilities.

For information on how to contact your state employment agency, call 1-866-487-9243.



Commission for Labor Cooperation