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WHAT IS THE LAW CONCERNING PAYMENT OF WAGES TO EMPLOYEES?

Final Paycheck

Employees working for Louisiana businesses who are laid off, fired, or who quit must be paid their wages in full at the next regular payday, not to exceed 15 days from the date of their discharge or termination. Wages include vacation time earned by the employee. An employee should send a written demand for payment of their final wages to their employer. After receipt of a written demand, the employer must pay all wages owed to the employee on a timely basis or be subject to a penalty that may be imposed by a court.

Unauthorized Deductions from Paycheck

Under Louisiana law (R.S. 23:635), an employer is prohibited from penalizing an employee or deducting any sum of money as a penalty or fine from the employee's wages, except where the employee damages property belonging to the employer or property in the possession of the employer. The deduction, though, cannot exceed the actual damage done.

Questions Concerning Overtime, Minimum Wage, or Salaried Employees

Louisiana has no state wage laws concerning overtime, minimum wage, or the regulation of salaried employees. Federal law, does however, impose certain minimum standards on Louisiana employers.

Each LSBA member who renews their membership in 2009 will receive our publication, "The Small Business Advisor" that contains a chapter on employee compensation and covers overtime, minimum wage, record keeping, and child labor requirements.

The United States Department of Labor's (USDOL) Wage and Hour Division enforces the Fair Labor Standards Act regulating minimum wage, overtime and salaried employees. Further information concerning these matters may be found at the Wage and Hour division of the USDOL Web site found at <http://www.dol.gov/esa/whd/>. If you have further questions, please call our offices at 800-262-4483.

LEGISLATIVE UPDATE

The legislative session ended June 25, and several bills passed that affect small businesses.

HB 385 Cortez, Effective August 15, 2009 - Act 93

House Bill 385 defines a "small employer" for the purposes of certain rate limitation provisions for health benefit plans. "Small employer" means any business has no less than three or more than thirty-five eligible employees, the majority of whom were employed within this state. The employee threshold must have been met for at least 50% of the working days within the preceding year. The business must not be formed primarily for purposes of buying health insurance and a bona fide employer-employee relationship must exist.

HB 618 Greene, Effective January 1, 2010 - Act 476

Exempts the first \$150,000 of taxable capital from corporate franchise taxation and eliminates the minimum amount of the tax.

SB 84 Adley, Effective August 15, 2009 - Act 392

SB 84 increases the maximum amount of materials and supplies that can be purchased without public bid to \$40,000.

HB 333 Kleckley, Effective upon signature by the governor

House Bill 333 provides that all residential homeowners policies renewed on or after January 1, 2010 will have only one separate deductible on an annual basis for loss or damage resulting from a named storm or hurricane. In 2008, Louisiana was affected by multiple storms and some insurance companies applied multiple deductibles on policyholders. This legislation prohibits multiple storm deductibles. This legislation does not change any laws relative to normal, non storm related deductibles.

IMPORTANT LEGISLATION THAT FAILED TO PASS

Numerous attempts were made to pass legislation that would have required the Governor to accept federal stimulus funds which would have expanded unemployment compensation benefits. The legislation, prompted by the stimulus legislation enacted by Congress and signed by the president in February, would have increased UC taxes for employers as their "experience rates" increased by the new benefits paid to their former employees. Reimbursable employers would have had to pay back these benefits dollar for dollar.

It also would have let persons restrict their employment search to part-time work if they previously worked in a part-time capacity even if there was full-time employment available for which they would qualify. Finally, it would have allowed claimants to collect an additional six months of benefits if they were in a training program authorized under the Workforce Investment Act or approved by the state, even if the training does not assist them in becoming re-employed.

BUSINESS UTILITY TAX

Effective July 1, 2009, the state sales tax exemption for business utilities has been fully restored. Since 1986, the sales tax exemption for utilities has been "temporarily" suspended,

meaning that all taxpayers were paying the state sales tax on their utilities. With the passage of the "Stelly Tax Plan" by the Legislature and the electorate in 2002, the exemptions for individuals/residences were restored, leaving only the business community to pay this sales tax. During the 2005 1st Extraordinary Session, the Legislature further provided relief in this area by reducing the sales tax on energy sources for businesses incrementally.

Effective July 1, 2009, the state sales tax exemptions for natural gas, electricity, steam, and water have been fully restored – meaning that these items are no longer subject to state sales tax. You are encouraged to check your utility bill and to make certain that you are not being charged state sales tax on these items for usage on and after July 1, 2009. Contact the Louisiana Department of Revenue for further clarification.

CORPORATE FRANCHISE TAX ON LONG TERM DEBT

The corporate franchise tax on borrowed capital will continue to be phased-out by excluding "borrowed capital" from the definition of "taxable capital" as follows:

Taxable Year Beginning After
December 31, 2008 – Borrowed Capital
Percentage Exclusion is 56%.

Taxable Year Beginning After
December 31, 2009 – Borrowed Capital
Percentage Exclusion is 70%.

Taxable Year Beginning After
December 31, 2010 – Borrowed Capital
Percentage Exclusion is 100%.

In summary, after December 31, 2010, borrowed capital will be excluded from the corporate franchise tax base.