

SWAN Trumpeter

A Quarterly Newsletter

Issue 1 - Winter 2007

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Questions of Overtime...

By Kirk Henke

Questions of overtime are governed by the Fair Labor Standards Act, which has its origins in the Depression era. The key elements of the Fair Labor Standards Act are defining minimum wage, overtime pay, record keeping, workplace safety, and child labor standards for workers.

Let's examine the rules governing overtime pay in the State of Alaska. When does an employee qualify for overtime pay? The Federal Department of Labor requires employers to pay overtime on work performed over forty hours in a scheduled work week. In addition, the State of Alaska states employees are due overtime pay (payment of 1 ½ times their regular rate,) on all hours worked over eight hours a day.

Hence, if an employee works one nine-hour day in a week, he would be due 8 hours of regular pay and 1 hour of overtime pay. In addition, an employee who works 7 hours a day for 6 days would be due 40 hours of regular and 2 hours of

overtime pay. Both federal and state guidelines must be followed.

The next step is to determine whether an employee is 'exempt' from overtime pay. This would seem to be simple, but is not. This section of the Act, *Exemptions for Overtime*, is commonly misinterpreted. Most people believe that a person's job title or position in the company automatically makes that person exempt from



Swan's professionals stand ready to assist you with your HR, WC, Safety, Benefits, and Payroll.

overtime, but that is not the case.

Executive, administrative, professional, computer, and outside sales employees may be 'exempt' from overtime. Deter-

mining what constitutes these classifications can be complicated, to say the least. Job title alone is insufficient for establishing 'exempt' status, so not all supervisors or managers are 'exempt.'

The tests and criteria used to determine 'exempt' status are: the individual's primary duties; compensation minimums; customary and regular direction of two or more employees; authority to hire and fire; certain commission pay; and equity of ownership in the enterprise. Of course there are exceptions, such as fishing, farming, newspaper delivery, baby sitting etc.

State laws can be more stringent too; for example, there is a minimum pay salary amount for 'exempt' employees. In Alaska, that amount is currently \$572 a week, or just under 30k a year. 'Exempt' employees can also be paid on a fee basis, rather than just salary.

Another common misconception employers have is with regard to salaried employees. The notion is that if employees receive a salary amount they are 'exempt' from overtime wages, and hours do not need to be kept.

Nothing could be further from the truth. Being paid a salary is just a pay type, like bonuses, commissions, or for that matter,

straight or regular pay. Furthermore, making a mistake about this pay type can expose employers to horrendous lawsuits for back pay for overtime hours due an employee or ex-employee. Back payment for overtime wages and the penalties levied on employers by lawsuits are frequently published in the Money section in the Anchorage Daily News.

But there is an easy way to prevent this problem. The best practice is keep accurate time records for hours worked. The records do not have to be kept in any particular form, and time clocks need not be used. Some common methods include tracking hours by hand on a time card or log sheet, or via a web-based application.

If employers do not keep proper time records, they are at the mercy of the employee's record of overtime hours worked. Because the State of Alaska Department of Labor makes it very clear that employers are to keep time records (AS 23.05.080) for all employees for hours worked, it has a golden rule of holding employers to higher standards than their employees. If employers do not keep time records, the verdict always rests on the word of the employee.

Now, it may seem a little silly to keep records for doctors, teachers, and business owners, but business owners and non-profits need to abide by the law to prevent liabilities and penalties. As a precaution, Swan Employer Services rec-

ommends that all clients keep records for hours worked on all employees, just in case a Department of Labor audit ever arises; this is just a best business practice for employers. To do otherwise runs the risk of legitimate or frivolous lawsuits, and as well as an enormous outlay of time and money.

As you can see there are many details that factor into whether an employee is exempt from overtime hours or not, but that's what Swan Employer Service is here for. If you have questions about whether your employee is exempt or not, please contact Robert Lindstrom for an audit. This precautionary step may protect your assets, keep your employee happy, and save you money.

Retirement Planning

By Kirk Henke

Let's face it, we're not getting any younger, and retirement, like anything in life, comes at us fast. In fact, you may be asking what happened to 2006? The golden years of retirement will be no different. But, you've got a chance to do something about this. Swan Employer Services can sponsor a 401(k) for your company which fits you and your company's needs. Do you want to attract, retain, and motivate your employees? Do you wish to maximize your own retirement? These are all questions that small business owners ask themselves on a regular basis. Partnering with Swan Employer Services can answer some of these questions and more. We can define your needs and create a 401(k) plan which suits them. Employer matching contributions, profit sharing, vesting schedules, eligibility requirements, and even auto-enrollment are all available to you through Swan Employer Services. Contact us today to schedule a 401(k) investment meeting and watch your nest egg grow.

Principal Financial Group

We are pleased to offer you our new retirement plan through Principal Financial Group, one of the premiere 401(k) providers for small businesses in the country. Here are some of the fantastic advantages that Principal Financial Group & Swan Employer Services have to offer:

- ◆ Selection of either Traditional 401(k) or 401(k) Roth contributions.
- ◆ No annual participation fees.
- ◆ No employer sponsor or testing fees.
- ◆ Comprehensive website which allows greater flexibility and freedom for participants.
- ◆ Greater fund diversification and selection.
- ◆ Auto-enrollment available.

In addition, I'd like to introduce Jere El-Bakri as our registered financial consultant. Jere brings years of experience and expertise in designing and executing retirement plans for small business owners. He's designed over 250 plans for owners!

Swan Employer Services is very excited about this combination, and we are certain that we can design a plan that fits your needs. In order to do so, please contact Jere at (800) 948-0330 to schedule a time to meet.

Increased Contributions Limits for 2007		
Type of Contribution	Limit in 2006	Limit in 2007
Traditional IRA	\$4,000	\$4,000
Roth IRA	\$4,000	\$4,000
IRA Catch Up (Age 50+)	\$1,000	\$1,000
Simple IRA	\$10,000	\$10,500
Simple IRA Catch Up (Age 50+)	\$2,500	\$2,500
Traditional 401(k)	\$15,000	\$15,500
Roth 401(k)	\$15,000	\$15,500
401(k) Catch Up (Age 50+)	\$5,000	\$5,000

Independent Contractor or Employee?

By Hank Swan



At least once a month one of our clients comes to us saying that they want to hire a new person as an independent contractor. This gets our attention, because as the co-employer, we are motivated to make sure things are done according to the law. Otherwise both parties could be liable for the taxes, interest and penalties which come from the failure to report a contract laborer who does not meet all the conditions (The conditions can be found in Alaska Statute, Section 23.20.525(a)(10)(ABC).

Many business owners feel that when someone has a business license or his or her own tools they can hire that person and pay as an independent contractor. This probably is not the case however, as the Alaska Department of Labor has stated that the following three conditions must be met in order to qualify as an independent contractor:

Lack of Direction and Control

Control is exercised when workers are totally dependent upon the employer economically. The employer exercises the necessary control of the employee through monetary means. For example, a worker who performs service primarily for one company would economically be dependent upon that company.

If the employer and not the individual bears responsibility for the finished product or legal responsibility for the performance of the service, the individual who made the product or performed the service is an employee for Employment Security Tax purposes.

In contract labor, the entity who contracted to have the work done is concerned only with the finished product. In an employer-employee relationship, concern is with the way the work is done.

An independent contractor has freedom of action. This freedom of action allows independent contractors to choose their own hours, days of work, materials, acquire their own customers, hire their own assistants, and set their own fees for services performed.

Not in the Usual Course of Business

The product or service which the employer organized to deliver constitutes the "usual course of business." Work performed in the usual course of business is employment.

The premises where work is done is the employer's place of business. For example, a construction job site is the usual place of business for contractors. The point of sale is considered the usual place of business for a salesman. *An independent contractor provides a service or product which is not in the employer's usual course of business.*

Independent Trade or Business

A sign of an independent business is not the possession of a business license, *but showing that the business of the worker could exist independent of the particular employer.*

Independent contractors customarily do work for multiple clients. They provide their own advertising, tools, and equipment; submit proposals or bids on projects for which they set their own fees; and are liable for the performance of their work.

Written contracts with employees that state they are independent contractors responsible for their own taxes are null and void. Such contracts are not sufficient to alter the real relationship between the employer and the worker.

Business owners should note that if any of the above three conditions is not met, the individual does not qualify as an independent contractor, making him or her an employee.

Another area where concerns may arise is Workers' Compensation Insurance; if independent contractors are truly independent, they should carry their own workers' compensation policy. If they don't, and they were somehow disabled or otherwise severely injured, they will be looking for their new employer, **YOU**, to provide for their family.

So, what's the bottom line? As small business owners we put too much time, money and energy into our businesses to cut corners. Get all of the facts before you make a decision, and if you still have questions, call Swan Employer Services for advice.



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America's Workplace At Risk:

No business, regardless of size or location, is immune to the countless problems that alcohol and drug abuse can cause. Most individuals who abuse alcohol and other drugs are employed, and when they arrive for work, they don't leave their problems outside the door.

- **Of callers to the National Cocaine Helpline, 75% admit to having used drugs on the job, 64% report that drugs have adversely affected their job performance, 44% say they have sold drugs to fellow employees and 18% say they have stolen from coworkers to support their drug habit.**
- **Individuals who are current illicit drug users are more than twice as likely (9.3%) than those who are not (4.3%) to have changed employers three or more times in the past year.**
- **Individuals who are current illicit drug users are also more likely (12.9%) than those who are not (5%) to have skipped one or more work days in the past month.**
- **One in five workers report that they have had to work harder, redo work or cover for a co-worker or have been put in danger or injured as a result a fellow employee's drinking.**

Injuries at the Workplace

By Dave Reynolds

Understanding the process of proper injury reporting is very important. Injuries affect not only the immediate workplace but also the cost of claims. Poor reporting and poor claims management can result in a spike in overhead costs and decreased efficiency in the workplace. Since we are all aware of the cost to the workplace, (e.g. temporary loss of personnel, rescheduling of personnel, possible reassignment of duties, and customer service issues), let's take a look at what can be done BEFORE a potential injury occurs.

COMMUNICATION

We talk to each other on a daily basis. We also require certain duties to be performed in a specific manner whether it directly involves a customer/client or commodities used in our businesses.

Why don't we communicate the concerns that may result in an injury?

And do so regularly? If a customer has received the incorrect product, do we "remind" those involved about proper procedures? If the occurrence is repeated, do we again (and again, and again,) remind those involved in order to correct the problem? Then why wouldn't we do the same when addressing issues that potentially will send an employee to the doctor for a couple hours (possibly resulting in limited or restricted duties) or possibly even away from the workplace?

Reviewing the workplace for potential sources of injuries or difficulties BEFORE an injury occurs and then communicating to your staff, on a regular basis, how to defend against them is a great defense against potential workplace injuries.

EXCUSES...

But... I have a business to run; I'm way too busy to take the time and walk around my facility to determine what is a potential injury; and if I pay someone to do this it will cost "an-arm-and-a-leg." I'm not even sure I know what to look for and how to tell my staff. "Safety Meetings" take way too long; I can't have my whole staff stop what they're doing for an hour just to give

out safety information! That doesn't help me make my payroll.

RESOLVE

Swan Employer Services can help you resolve to put these excuses behind you. If you have time to pick up the phone, then you have a resource at your HR department to conduct a review of the workplace. Safety Meetings can be 5 minutes first thing in the morning. You'll find that most of your concerns are easily addressed by the safety experts at Swan.

How do you as a business afford an injury? You can't. Remember, an injury means at least one person away from the office for at least an hour or two and possibly more.

An effective, efficient and healthy workplace is not only beneficial to your customers and clients but also to all of the employees that support the company goals and mission.

So how does this relate to injury reporting? If your workplace is safe, healthy and proactive, you most likely will have little experience with injury reporting...and **THAT** is a **GOOD** thing!



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Swan Employer Services Injury Reporting Procedures

IF AN INJURY OCCURS:

1. Assess the employee's injuries.

2. If the injury is life threatening call: 911

3. NOTIFY SWAN EMPLOYER SERVICES ASAP.

Contact Dave Reynolds or Robert Lindstrom at 907-770-7923.

4. If the injury is not life threatening, a **Manager or Supervisor must transport the injured employee to the nearest medical facility.** *This is not an option; we need to insure that the treating physician understands that we have a "Return To Work" policy.*

5. Suggested Medical Facility: **Primary Care Associates**

ONCE THE INJURED EMPLOYEE IS AT THE TREATING FACILITY

6. Provide information to the treating provider regarding transitional duty availability; supply a **Return to Work Capabilities Form.**

7. Request that the provider complete the form **at the time of treatment.** **Do not wait for the provider to contact you.**

8. Upon receipt of the **Return to Work Capabilities Form** contact Swan Employer Services **ASAP!**

9. Continue to stay in touch with members of Swan Employer Services to keep them informed of progress or needs to help keep your plan on track.

Remember.....

- **Time loss stops** if the worker returns to work at regular wage and hours or refuses suitable and available work properly offered.
- **Time loss is prorated** if the worker returns to work at less than regular wage or hours.

Calendar

Important dates
to keep in mind.

March

10

Job Fair

16-23

Anchorage School
District Spring Break

31

First Quarter of fiscal
year ends.

April

8

Easter Sunday

17

IRS Filing Deadline

May

1

Medical/Dental Open
Enrollment

23

ASD Last day of school

28

Memorial Day;
Federal Reserve closed

Do your employees need a Paycard?

Do they wait in line to get their paychecks?

Do they pay high money transfer fees?

Do they make a special trip just to pick up their paychecks?

Have they been turned down for a checking account or credit card?

Do they send allowance to college students?

Do they transfer money to a family member?

Do they need a budgeting tool for a family member or business employee?

Do they worry about carrying around cash?

If the answer to any of these questions is "yes," then PayCard is the answer!



A PayCard is a Mastercard debit card. Swan Employer Services can send an employee's pay directly to the PayCard every payday, instead of issuing a hard copy check or in addition to direct deposit. The debit card works as any other debit card, allowing employees to shop by phone or Internet, to receive cash back at retail or convenience stores, pay bills automatically, take out cash at ATMs, and transfer money.

To find out more about PayCard and how it can help your employees, contact the Payroll Department

Client Spotlight:

Fish Alaska

Like many folks who live in Alaska, brother and sister Melissa Norris and Marcus Weiner spend time with family and friends enjoying the great outdoors, building strong bonds with one another while fishing, camping, and skiing. Melissa says that for them, “fishing is a family thing.”

Several years ago, the pair decided that perhaps they could combine their love of the Alaskan outdoors with their unique business skills. Marcus has extensive background in sales, and Melissa has a marketing and sales background, as well as skill with graphic design. With more than 500,000 fishing licenses purchased in Alaska annually, they dreamed of a publication aimed directly at the Alaskan angler. As Marcus said, “there’s nothing like it in the marketplace.” Alaska is one of the premier places in the world to fish, and the pair saw a need for a magazine dedicated to all things related to reeling in the big ones!

The first edition of *Fish Alaska* launched in August 2001, and four months later, the team decided to take the plunge full-time into the publish-

ing business. Working with six employees and over thirty contributors, the pair share information and beautiful photographs of fishing in the Great Land. Anglers can find the hottest spots to fish, information on techniques and tackle, regional features, trip-planning advice, and recipes for their catch. Today, Fish Alaska is shining among national publications, publishing over thirty-five thousand copies monthly and shipping to various homes and newsstands across the Lower 48. In addition, various large corporations like Lamiglas and Penn are investing advertising dollars to reach Alaskan fishermen.

This year they’ve also created an Annual Gear Guide, which can be purchased at your local Fred Meyers and sporting goods stores. This helpful guide will be available year-round, and is full of reviews and helpful guidance for purchasing gear for Alaskan fishing.

If you have relatives coming up to get their lines wet, or just love fishing yourself, check out this fantastic publication. If you’d like your advertising efforts to reach a wide audience of people who love the outdoors, contact their staff at (907) 345-4337 today.



Swan Employer Services would like to welcome **Robert Lindstrom**, our new Human Resource Manager. Robert joins us after serving as HR Manager of Rite-Aid and Coachella Valley Recreation & Park. He moved to Alaska for the austere

beauty and enjoys fishing with his father in Sterling, Alaska. Robert will be leading his team in the Human Resources department in making sure our clients receive the best employment training, benefits, and safety education. If you have any questions regarding employment laws, hiring and firing procedures, job descriptions, or anything dealing with employment, please feel free to contact Robert today. (And be sure to ask him about the upcoming Job Fair!)



We are pleased to announce that **Janelle Lyse** has been promoted to Benefits Administration. Janelle originally comes from Sitka, Alaska. She did a fantastic job working as administrative assistant and

receptionist in recent months, and we are confident her enthusiasm, empathy, and diligence will shine in the Benefits department. She’ll be helping with Medical/Dental open enrollment and our new 401K program. We are excited about her promotion and look forward to her continued tenure at Swan Employer Services. Should you have any questions about benefits, feel free to contact Janelle.

Swan on the Web...

Swan Employer Services is pleased to announce our new, enhanced website...more features, easier access, great benefits! It's all there:

- *Access to forms and benefits / partner links.*
- *Department contact information.*
- *Archived Newsletters.*
- *401k Education*
- *Client Partnerships*
- *Eventually: Online New Hire Orientations*

Check us out at:

www.swanhr.com



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