

Myths and Realities about Piece-Rate Work

TRUE OR FALSE?

1. Paying an employee by “piece-rate” means paying a set amount for each item produced or unit completed.

True. Employers frequently pay by piece-rate in order to motivate employees to work more quickly. Piece-rate is commonly used, for example, when employees are picking crops or assembling toys or tools.

2. If an employer is paying employees on piece-rate basis, there is no obligation to keep track of their hours or pay them minimum wage or overtime.

False. There are some industries (such as agriculture) where employees are traditionally paid on a piece-rate basis. It also happens that most agricultural employees are exempt from overtime requirements. But in almost all cases, it is the law (not the fact that they are paid piece-rate) that makes them exempt.

In addition, most agricultural employees must still be paid the equivalent of at least minimum wage (\$7.80 per hour) for every hour they work. Thus, even if their employer is paying them by the piece, that employer must still assure that their working hours are being accurately tracked. And if their piece-rate wages amount to less than minimum wage for the pay period, the employer must supplement their wages so that it reaches this amount.

3. In calculating overtime for piece-rate work, the employer must add up the money the employee earned in that workweek and divide it by the number of hours worked. The resulting figure is the “regular rate,” and the employer must pay time-and-a-half of that rate for all hours worked over 40.

True. This “weighted average” formula is the same one used in most situations where an employee is paid a variable amount of money during the workweek. (See our website below for more information and examples of overtime calculations.)

4. If someone creates items (such as clothing or jewelry) in their home and is paid by the piece, she can be classified as an independent contractor.

Unclear, but Probably False. There is a great deal of confusion about this topic. While it is true that independent contractors are generally paid when the work is completed, that is not the same thing as being paid by the piece. To determine whether this individual is an independent contractor, a court or BOLI would look at such things as: whether the person has an established business, how many customers she has, and whether she has discretion about how the work is performed.

5. If an employer is paying by piece-rate and employees wish to forego their breaks and meal periods in order to make more money, it is alright for the employer to allow them to do so.

False! Despite the very understandable desire of the employee to earn as much as possible, the employer cannot allow that to be done at the cost of violating Oregon's breaks and meals requirements.

For more information on this and other important information affecting Oregon employers, please visit our website at www.oregon.gov/boli/ta. You can also call us at 971-673-0824.