



# Wage and Hour Application

Applicant Name \_\_\_\_\_

## I. GENERAL QUESTIONS

	Yes	No	N/A
1. Are all non-exempt employees compensated for the following:			
a) All the time that the employee is required to stay on the employer's premises, even if the employee is waiting for a work-related assignment or otherwise "on call"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Employee trainings or seminars required by the employer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are all employees reimbursed for business-related mileage when the employee uses his/her own vehicle?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If you provide employees with non-discretionary bonuses, do you include these bonuses when calculating the regular rate of pay for the employee's overtime rate? A non-discretionary bonus is one that is promised or expected based on a pre-existing set of criteria.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Do all tip sharing / tip pooling arrangements exclude all management (including assistant manager with authority to hire/terminate) employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Has an outside Human Resources professional or employment law attorney evaluated your exempt employee classifications within the last 2 years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Do you utilize an electronic time-keeping system or a time punch machine (as opposed to handwritten time sheets)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a) if you round your employees' clock in and clock out times (e.g., to nearest 5, 6, 10, or 15 minutes) do you round the time both down and up showing that the time rounded up is counted as time worked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Do your employees execute an employment arbitration agreement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a) Does this arbitration agreement contain a class or representative action waiver provision?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Do you utilize independent contractors (a.k.a 1099 workers)? If yes, please answer the following: ☐ ☐ ☐
- a) Do you control or direct how the independent contractors perform their work and results? ☐ ☐ ☐
- b) Have you converted any employees to independent contractors, or vice versa, in the last 2 years? ☐ ☐ ☐
9. If you lease workers from a staffing agency, do you have a written staffing agreement with the staffing agency in which the agency has agreed to defend and indemnify you for any losses arising from claims made by the temporary employee? ☐ ☐ ☐
10. Do you employ at least one Human Resources Manager who has attended at least 6 hours of Human Resources or employment law continuing education (e.g. seminars or webinars) within the past 24 months? ☐ ☐ ☐

## II. INCREASED MINIMUM SALARY QUESTIONS

With regard to the Department of Labor's proposed increase in minimum salary threshold for employees to qualify for "white collar" exemption, please provide the following information:

- |   | Yes                      | No                       | N/A                      |
|---|--------------------------|--------------------------|--------------------------|
| 1. Do you have exempt employees who currently earn a base salary of less than \$47,476 per year (i.e. \$913 per week)? <i>If no, stop here. If yes, please complete the following</i> | <input type="checkbox"/> | <input type="checkbox"/> |                          |
| A. Please provide the number of exempt employees who currently earn less than \$47,476 per year (\$913 per week)  | <hr/>                    |                          |                          |
| B. In order to comply with the U.S. Department of Labor's proposed Final Rule published at 29 CFR Part 541 (the "Final Rule") will you:   |                          |                          |                          |
| i. Convert these employees to "non-exempt" status, pay them hourly, and provide rest breaks and meals breaks (if required by law)?  | <input type="checkbox"/> | <input type="checkbox"/> |                          |
| ii. Pay these exempt employees a minimum salary of \$47,476/year (or \$913/week)?   | <input type="checkbox"/> | <input type="checkbox"/> |                          |
| iii. Use a combination of the strategies set forth in i and ii, above?  | <input type="checkbox"/> | <input type="checkbox"/> |                          |
| C. If your answer to "A" (above) is over 15 employees, please confirm that you will be consulting with outside counsel and/or an HR risk management provider during this process?     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

### III. CALIFORNIA SPECIFIC QUESTIONS

Yes No N/A

1. Do you claim a tip credit towards minimum wage for any of your employees? ☐
2. Do you ever reduce the salary of an exempt employee based on the number of hours they worked?
3. Do you have a written meal period policy that provides non-exempt employees with an uninterrupted, off-duty meal period of at least 30 minutes before the end of their fifth hour of work?
  - a) If employees executed a Meal Period Waiver agreement, do all of the employees who have signed a meal period waivers, such an agreement to work 6 hours or less per day?
  - b) Have you entered into “on-duty” meal period agreements with any of your employees?
4. If you maintain a written rest period policy, is the phrase “major fraction thereof” contained therein?
5. Do you give every new employee, at the time of hire, a written notice of their regular pay rate, overtime rate, and the basis of their pay rate (i.e. hourly, shift, weekly, salary, piece rate, commission, or otherwise)?
  - a) If you employ commissioned-based employees, do you have written contracts, with the commission based employees, which set forth the method by which the commission shall be computed and paid and signed by the employee?
6. At the time of an involuntary termination, do you give the terminated employee their final paycheck?
7. If your employees earn paid vacation, must they use all earned vacation in the year it is earned or otherwise lose that vacation?

### IV. NEW-YORK SPECIFIC QUESTIONS

Yes No

1. Do you ever reduce the salary of an exempt employee based on the number of hours they worked?
2. Do you require every employee to sign, at the time of hire, a written notice of their pay rate, including overtime rate, how paid (e.g., hourly, shift, week, commissions), payday, employer’s official name, address and phone number of employer’s main office, and allowances taken as part of the minimum wage?

#### IV. FLORIDA SPECIFIC QUESTIONS

Yes No

1. Do you pay all non-exempt employees an hourly wage that is equal to or more than the federal minimum wage or the Florida minimum wage, whichever is greater?
2. If you have any employees who receive tips, please answer the following questions.
  - a) State the minimum hourly cash wage you must pay to your tipped employees minimum: \$5.03 \_\_\_\_\_
  - b) Do you calculate your tipped employees' hourly wage rate to ensure your tipped employees meet the Florida minimum wage threshold?

#### V. LOSS HISTORY QUESTIONS

Yes No

1. In the last 5 years, has any current or former employee made or threatened a claim for any violation of wage and hour laws, including but not limited to, claims related to meal periods, rest periods, or unpaid overtime? If yes, describe the outcome and how you have changed your practices to prevent further claims (attached explanation if needed).
2. Does any manager, supervisor, shareholder, partner or owner within your organization have any knowledge of a potential violation of any wage and hour law that could result in a claim, including but not limited to, claims related to "off the clock" work, meal periods, rest periods, unpaid overtime, or failure to reimbursement expenses?

For example, but not by way of limitation, we consider it reasonable for you to foresee or have knowledge that a claim may be brought against you if a current or former employee has:

- written or verbal notice from an attorney related to a potential complaint by a current or former employee
- threatened to hire a lawyer and/or file a claim with a federal or state regulatory agency related to wage and hour law violations
- made a complaint (whether formal or informal) related to (a) wages owed to him/her, (b) "off the clock" work, (c) missing meal or rest periods, etc.

Any Additional Information

The Applicant warrants after full investigation and inquiry that the statements set forth herein are true and include all material information.

The Applicant on behalf of the Proposed Insureds further warrants that if the information supplied on this application changes between the date of this application and the inception date of the Policy, it will immediately notify us of such change, and we may withdraw or modify any outstanding quotations or authorizations or agreements to bind the insurance. Signing of this application does not bind Underwriters to offer nor the Applicant to accept insurance, but it is agreed that this application shall be the basis of the insurance and will be attached and made a part of the Policy should a policy be issued.

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Date	Applicant's Authorized Signature of a Principal Partner or Shareholder	Title
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Date	Applicant's Authorized Signature of Individual In Charge of Human Resources or Personnel Department or Signature of 2nd Authorized Person	Title
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