



GAMBLING ASSETS ON LOW WAGE WORKERS



Employing domestic staff for home and property.

How can employing a small number of workers place your financial assets at risk?

Many business savvy individuals who employ household staff are unaware of strict new employment laws that affect every household employer, adversely many families are well aware of those guidelines but choose to look the other way, continuing to manage their households as status quo. Think Zoe Baird or Meg Whitman's 2010 Nannygate. Today more than ever the State Revenue Departments and the US Department of Labor are taking a keener interest into employers who do not pay employment taxes.

SET UP FOR DISASTER

A busy family employs a nanny who is legally able to work in the state of California. The family has been writing personal checks to the nanny once a week for \$400, despite the fact that most weeks she works 55 hours. The family does not keep records of hours worked or pay history, except for their personal check stubs.

LAWS DETERMINE STATUS

State and federal labor law is clear: workers not in charge of establishing their own work schedules, who do not bring with them tools of the trade and who are assigned daily tasks by their supervisor are employees and must be paid as such. Nannies, housekeepers, laundresses, cooks, personal assistants, and mother's helpers are all hourly employees and must be paid for any overtime worked.

Overtime is defined as any time worked over 40 hours in a single week and is paid at 1.5 times the hourly rate. California overtime is defined as any time worked over 8 hours per day.

THE IMPLICATIONS

The busy family who pays their nanny \$400 per week, despite 55 hours of overtime, effectively is paying \$7.27 per hour, a violation of California state law which raised the minimum wage to \$8.00 per hour in 2014. The family also faces overtime violations by not accounting for the extra 15 hours of overtime owed.

WAGE CALCULATION

\$8.00 CA min wage
x 40 regular hours
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\$320.00
\$12.00 time & a half (8 x 1.5=12)
x 15 overtime hours
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\$180.00
\$320.00
+ \$180.00
<hr/>
\$500.00 weekly gross wages

FINE CALCULATIONS

In the case of the nanny in California who works 55 hours a week and is not paid minimum wage or overtime, there are multiple violations and fees attached to this underpayment.

For each paycheck issued not paid at minimum wage, there is a CA State violation of \$100 for the first offense and \$250 for each subsequent offense.

For each paycheck issued without the overtime owed, there is a Federal violation of \$1,100.

For each paycheck issued without the overtime worked, there is a CA State violation of \$150 (not to exceed \$4,000.00).

A "waiting fee" is also attached for the employee waiting for what is owed, this is calculated at 8 hours (average workday) x Pay Rate x 30 days.

One paycheck equals one violation, therefore, in one month, the nanny's employer would owe:

Federal: **\$2,200**

CA State: \$150 x 2= **\$300**; \$100 + \$250 = **\$350**

Waiting: 8 hrs x \$8/hr x 30 days = **\$1,920**

Total owed in violations for a month: **\$4,770**

Total owed in violations plus overtime wages for a month: **\$5,490**

Total owed in fees and overtime a year: \$65,880

The average high net worth household may have at least 3 employees, so with a nanny, a housekeeper and a cook, all working 55 hours a week, the employer would owe: **\$197,640/year** in fees and overtime.

**Keep in mind: domestic staff are paid a minimum \$15-20 per hour according to Teresa Leigh salary trends, therefore with multiple employees per household overtime violations and fees could easily equal close to half a million.*

EMPLOYMENT FACT:

Nannies and housekeepers are non-exempt hourly employees and NOT independent contractors. Therefore, it is the employer's responsibility to:

1. **Employ and compensate workers per state and federal guidelines**
2. **Keep payroll records**
3. **Pay at least minimum wage**
4. **Pay overtime wages**

KNOW THE LAW

The Fair Labor and Standards Act (FLSA) established minimum wage, overtime and record keeping rules. Some states have different laws regarding overtime pay, but all require it. For example, California employees are eligible to receive overtime pay for more than 8 hours worked in a day. When state and federal laws differ the greatest benefit to the employee prevails.

Fourteen states and Washington, D.C. have minimum wages higher than the Federal rate of \$7.25 per hour. The state with the highest minimum wage is Washington at \$9.32 per hour. California recently passed the law raising minimum wage to \$9.00 by July 1, 2014 and \$10.00 by January 1, 2016.

**More information regarding employment and labor law can be found at www.dol.gov*



REAL LIFE: OVERTIME VIOLATION FEES

Teresa Leigh Household Risk Management (TLHRM) audits wage compensation for employees on a client need basis. TLHRM provides wage and overtime calculation reports to help clients understand the correct course of action and pay their household staff in accordance with the law. Below is a real life example that TLHRM completed for a client in California.

A high net worth family in California employs two domestic staff, a housekeeper and a nanny. They both work 11 hour days and are paid at the end of every week. In California, overtime occurs when a person works over 8 hours in a day or over 40 hours in a week. In this case, each employee worked 3 hours in overtime each time they worked.

TLHRM calculated what one employee was paid with and without overtime included, showing gross wages (before taxes) and net wages (what they actually received on a paycheck). TLHRM also included the overtime violations and fees according to State and Federal law that occurred by not paying employees overtime.

COMPENSATION PAYING OVERTIME			
Hours Worked	OT Hours	Gross Wages	Net Wages
Mon. 11 hours	3	\$250.00	\$211.83
Wed. 11 hours	3	\$250.00	\$211.83
Fri. 4 hours	0	\$80.00	\$69.31

COMPENSATION WITHOUT PAYING OVERTIME		
Hours Worked	Gross Wages	Net Wages
Mon. 11 hours	\$220.00	\$182.90
Wed. 11 hours	\$220.00	\$182.90
Fri. 4 hours	\$80.00	\$69.31

Pay periods per year: 52
 Violations per pay period: 2 (1 State + 1 Federal)
 Violations per year: 104 (52 State + 52 Federal)

Federal Overtime Violation Fee: \$1,100/violation
 Total per 52 violations: \$1,100 x 52 = **\$57,200**

Wage Statement Violation Fee: \$150/violation; up to \$4000
 Total per 52 violations: \$150 x 52 = \$7,800
 Maximum charge for violations: **\$4,000**

Waiting Time Violation Fee: 8 hrs x \$20/hr x 30 days
 Waiting Time Violation Fee Total: **\$4,800**

Total Fees for Violations (Per Year): \$132,000 (\$66,000 per employee)

Total Overtime Compensation: \$18,720 (\$9,360 per employee)

Total Fees + Overtime due: \$150,720

The average high net worth household employs up to 3+ domestic employees. **Can you calculate the immediate asset risk on overtime violations? On wage violations? By household? By state?**

We can.



Federal law states that no state shall impose a lower minimum wage than the federal government’s standard of \$7.25. Each state has laws regarding minimum wage that dictates payment of hourly employees. In some states, minimum wage law regulates future increases to occur on certain dates. Below is a list of 2014’s minimum wages per state.

MINIMUM WAGE RATES FOR 2014

ALABAMA

\$7.25

ALASKA

\$7.75

ARIZONA

\$7.90

ARKANSAS

\$7.25

CALIFORNIA*

\$8.00

COLORADO

\$8.00

CONNECTICUT*

\$8.70

DELAWARE

\$7.25

FLORIDA

\$7.93

GEORGIA

\$7.25

HAWAII

\$7.25

IDAHO

\$7.25

ILLINOIS

\$8.25

INDIANA

\$7.25

IOWA

\$7.25

KANSAS

\$7.25

KENTUCKY

\$7.25

LOUISIANA

\$7.25

MAINE

\$7.50

MARYLAND

\$7.25

MASSACHUSETTS

\$8.00

MICHIGAN

\$7.40

MINNESOTA

\$6.15

MISSOURI

\$7.50

MISSISSIPPI

\$7.25

MONTANA

\$7.90

NEBRASKA

\$7.25

NEW HAMPSHIRE

\$7.25

NEW JERSEY

\$8.25

NEW MEXICO*

\$7.50

NEVADA*

\$8.25

NEW YORK*

\$8.00

NORTH CAROLINA

\$7.25

NORTH DAKOTA

\$7.25

OHIO

\$7.95

OKLAHOMA

\$7.25

OREGON

\$9.10

PENNSYLVANIA

\$7.25

PUERTO RICO

\$7.25

RHODE ISLAND

\$8.00

SOUTH CAROLINA

\$7.25

SOUTH DAKOTA

\$7.25

TENNESSEE

\$7.25

TEXAS

\$7.25

UTAH

\$7.25

VIRGINIA

\$7.25

VERMONT

\$8.73

WASHINGTON

\$9.32

WEST VIRGINIA

\$7.25

WISCONSIN

\$7.25

WYOMING

\$7.25

EXCEPTIONS & CHANGES FOR 2014-2016*

California

Increase to \$9.00 on July 1, 2014
Increase \$10.00 on Jan 1, 2016

San Francisco: \$10.74
San Jose: \$10.15

Connecticut

Increase to \$9.00 on Jan 1, 2015

Nevada

\$7.25 for employees who receive qualifying health benefits

New York

Increase to \$8.75 on Dec 31, 2014
Increase to \$9.00 on Dec 31, 2015

New Mexico

Albuquerque: \$8.60