

## DEAR HRK

# May we require an exempt employee to track their time worked?

07.12.22

The short answer is yes, employers may require all employees, regardless of whether they are classified as exempt or non-exempt, to track and record their hours worked. In addition, employers may set forth work schedules, including how many hours an employee may work, for both exempt and non-exempt employees, so long as state and jurisdiction meal and rest breaks are followed, as well as day of rest rules.

The federal Fair Labor Standards Act (FLSA), which is enforced by the Department of Labor (DOL), has set no requirements for exempt employees to track hours worked, unlike non-exempt employees who are required to track hours worked. This, however, does not apply to some states. For example, in Rhode Island, an employer must keep an accurate daily and weekly (time in and out) record for **all** employees. No one, including employees paid on a salary basis, is exempt from this law. Illinois is similar in that an employer must maintain a daily record of hours worked by both exempt and non-exempt employees.

However, it is important for employers to clearly understand that although it is acceptable to track exempt employees' time, it is, in most cases, not acceptable to deduct from their pay for hours not worked. In general, an exempt employee's salary should not be changed based on the number of hours they work during a particular week; otherwise, this may jeopardize the exemption status. We like the adage, "exempt employees are paid a salary for the job they do, not the hours they keep."

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).

Under the DOL, there are specific circumstances where an employer can deduct or reduce an exempt employee's weekly salary. These include instances when an employee is out for one or more full days for personal reasons (except for sickness or disability); for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness; to offset jury or witness fees; for military pay; for penalties imposed in good faith for infractions of safety rules of major significance; or for unpaid disciplinary suspensions.

It's considered an improper deduction to reduce an employee's salary if the workplace is closed due to inclement weather, or if an exempt employee is out for two days due to a minor illness in the absence of a bona fide sick leave policy, or practice in place. In addition, if an exempt employee is out for personal reasons and does not have any accrued paid time off to apply, deductions from salary can only be made in full day increments. In other words, if the employee works a partial day, they must receive a full day's pay. It is permissible to prorate an employee's salary during their first or last week of employment, or for weeks an employee takes leave under the Family and Medical Leave Act.

In summary, the jurisdiction where an exempt employee works is key to following state time tracking requirements. Non-exempt employees should always track their time in accordance with the FLSA, as well as state overtime requirements. When there is no state requirement for an exempt employee to record their hours worked, there may be valid reasons to adopt such a practice, which would be unique to your business and operational procedures.

## The People Simplifying HR

For almost twenty years, HR Knowledge has made it our mission to demystify the complex and daunting process of HR management. We do more than just provide the level of service and technology you'd expect from an industry leader. We combine an unparalleled passion for service with our decades of HR, payroll, and benefits experience to provide our clients with personalized and actionable advice that is second—to—none. From managed payroll to employee benefits to HR support, we can help your organization thrive, grow, and reduce operating costs—no matter what industry you serve. Whether you're interested in our Full-Service solution or just need your employee handbook written, HR Knowledge can help you minimize risk while staying on top of compliance regulations. The bottom line? We're not just another cloud-based technology company that also does HR, #WeAreHR. [Get the scoop](#) on how we can help you simplify HR.



@WEAREHRK