

## Make Sure Your Pay Records Are Compliant

Any employee who brings suit under the Fair Labor Standards Act (FLSA) for unpaid minimum wages or unpaid overtime has the obligation of proving that he or she has performed work for which not properly paid. Because the issue of pay was important, the Courts early on ruled that employers had a statutory duty to preserve certain records to be able to show they paid the right amount. When an employee claims by affidavit that pay is due, or produces records claiming to show that they worked more hours than they were paid for, the burden of proof shifts to the adequacy of the employer's records. *Anderson v Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946). The Statute's record requirements are quite detailed.

### Record-Keeping Requirements

Time (days worked and days of leave) and payroll records must be kept for exempt and nonexempt employees. Records kept for each type are different. Records must be safe and accessible upon demand. Employees may have longer right to records than does the U.S. Department of Labor (DOL).

### Records--Non-exempt

Name  
Identifications number(s)  
Address  
DOB  
Sex  
Occupation  
Work week  
Dates paid  
Regular hourly rate  
Basis and/or exclusions from rate  
Deductions  
Hours worked by day and work week  
Straight-time earnings by day or week  
Overtime pay

### Records-Exempt

Records with detail to permit calculation for each pay period of employee's total compensation including fringe benefits, prerequisites and leave taken. Basis may be shown as dollar amount of earnings per pay period.

### Length of Time to Keep Records

FLSA requires **Three-year retention** of the following: payroll records; contracts, agreements and certificates; and sales and purchase records of sales (for commissions).

FLSA requires **Two-year retention** of the following: basic employment and earnings records, wage rate tables, order, shipping and billing records (sales commissions), and records of additions to or deductions from wages paid.

### Compensatory Time Records

Number of hours earned each work period.  
Number of hours used each work period.  
Number of hours paid in cash, amount paid, and date of payment.  
Any collective bargaining agreement or written documentation of any understanding or agreement with respect to earning and using compensatory time off.

### What This Means For Counties

At the end of each fiscal year, pay records can be reviewed and corrected or supplemented prior to filing. Make sure you have written FLSA compliant minimum wage and overtime policies too.

For more information, contact CTSI at 303-861-0507.