

## Minimum Wage and Overtime

**Employers Subject to the Act****B2.01**

Calendar quarters - consists of (1) Jan-Feb-Mar, (2) Apr-May-Jun, (3) Jul-Aug-Sep, (4) Oct-Nov-Dec.

Examples

- a. Period of the complaint: summer 2008

The employer had 7 employees working more than one hour/day, 6 days/week in July, August, and September of 2007. The employer used more than 500 man-days in this quarter. (13 weeks x 6 days x 7 employees = 546 man-days)

This employer is subject to the FLSA for the calendar year of 2008 unless the rate of pay is less than the required State Minimum Wage rate.

- b. Period of the complaint: fall 2008

The employer's father, wife, three children and two non-related adult workers performed agricultural labor on the farm, in the 4 quarters of 2007. They worked more than one hour/day, 6 days/week.

This employer is not subject to the FLSA in 2008, because the employer did not employ more than 500 man-days of agricultural labor in any quarter in the preceding calendar year. Under the FLSA, immediate family members are not counted in computing man-days. (13 weeks x 6 days x 2 employees = 156 man-days) Therefore, the State Minimum Wage law would apply when there are two or more employees age 16 or older.

6. A restaurant owner (per d/b/a) employs one person over age 16 to wait tables. The owner works as a cook and his wife who is not named on d/b/a works as a food server/cashier. Neither the owner nor his wife is paid wages. However, this restaurant owner meets the criteria for an employer under the Act since his wife is an employee, even though she is not paid any wages. [See Policy 3(e)]