



FLSA

I Don't Care, I Don't Have Employees



1099-NEC

- Everyone's favorite tax form.
- For most construction work this form can only to be given to licensed subcontractors.
- Can't be used by most subtrades.



The LLV

- secure.utah.gov/llv
- Tool for looking up and verifying trade and status for all subcontractors.
- Maybe the most important link you get in this class.

Name:	Smith HVACR Specialists	
City, State, Zip, Country:	SAINT GEORGE UT 84790 United States	
Profession:	Contractor	
License Type:	Contractor With LRF	
License Number:	11425236-5501	
Obtained By:	Application	
License Status:	Active	
Original Issue Date:	09/18/2019	
Expiration Date:	11/30/2023	
Agency and Disciplinary Action*:	NO DISCIPLINARY ACTIONS OR NO DISCIPLINARY ACTIONS WITHIN THE TIME FRAME ESTABLISHED IN UTAH CODE 63G-4-106 AND 107	
Docket and Citation Number(s):	N/A	
E-Prescriber:		

Classification(s):	Qualifier(s):	Association Date(s):
S350 - HVAC Qualifier	Darin K Smith	09/18/2019
S220 - Carpentry and Flooring Qualifier	Karen Smith	09/18/2019

Back	Do Another Search	Obtain a License Verification
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Ted & David

- Ted paid David a total of \$150,000 from 2018 – 2020
- Employee Classification:
 - IRS payroll taxes- \$33,000
 - IRS late filing penalties- \$5,000
 - Missing Workers Comp premiums- \$18,000
 - General liability back premium- \$6,000
 - Unemployment tax contributions of \$3,000
 - Attorney Fees \$5,000
- Grand total: \$70,000

What is FLSA?

- Fair Labor Standards Act
- Signed into law in 1938
- Covers:
 - Minimum Wage
 - Overtime Rules
 - Child Labor Guidelines
- Chapter 10



Reporting New Hires

- All hired employees must be reported to the Department of Workforce Services **within 20 days of hire**.
- Online form available at:
 - Jobs.Utah.gov
- **There is a potential \$500 fine for deliberately avoiding reporting.**



Minimum Wage

- Federal minimum wage was last updated 7-24-2009
- Current rate:
 - **\$7.25 / Hour**
- Individual states can set a higher rate.



Minimum Wage Exceptions

- Most minimum wage exceptions will not apply to contractors. Possible exceptions are:
- The employee is a member of your immediate family.
- Workers under the age of 20 during their first 90 days of employment.
- 14(C) Certificate Holders



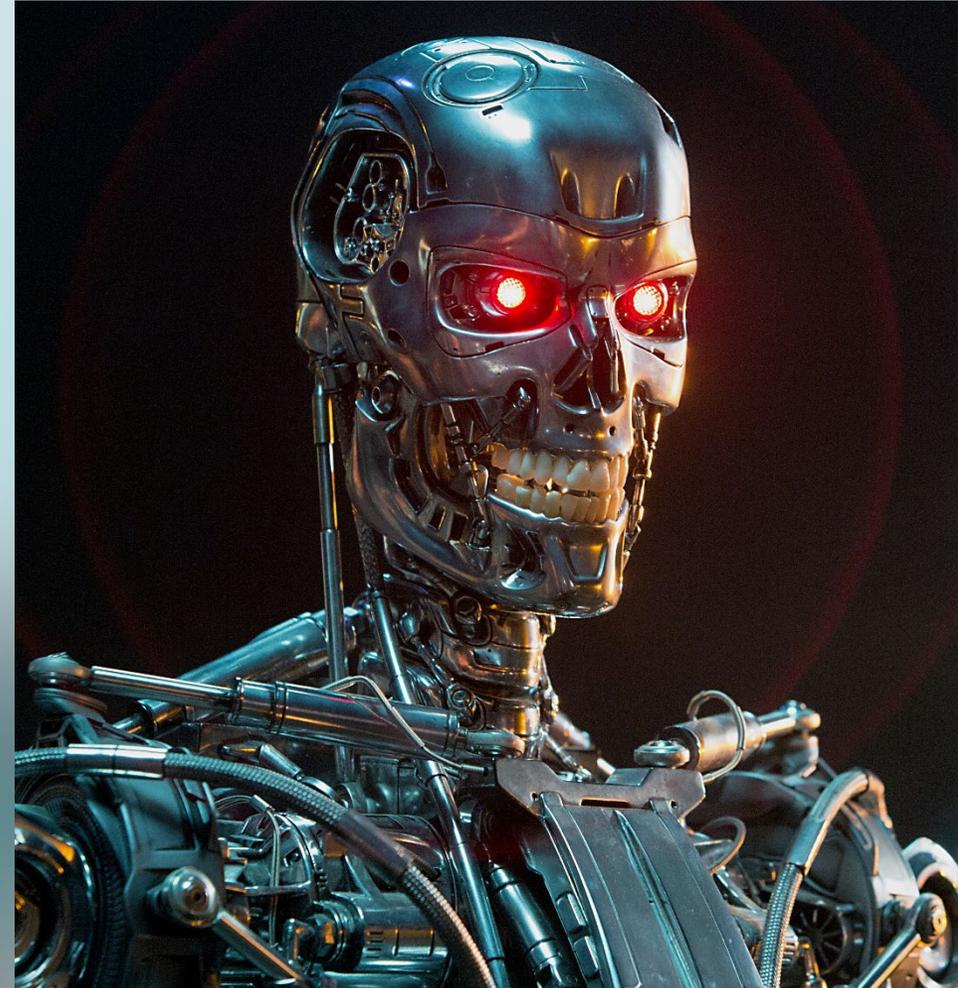
Break Time

- Employers are not required to offer breaks to employees over the age of 18.
- If you give your employees a break it must be paid unless the break is specifically designated for eating a meal.



Termination

- When an employee is terminated how long do we have to issue their final paycheck?
 - 24 Hours
- What if the employee quits?
 - They can be paid the following pay period.



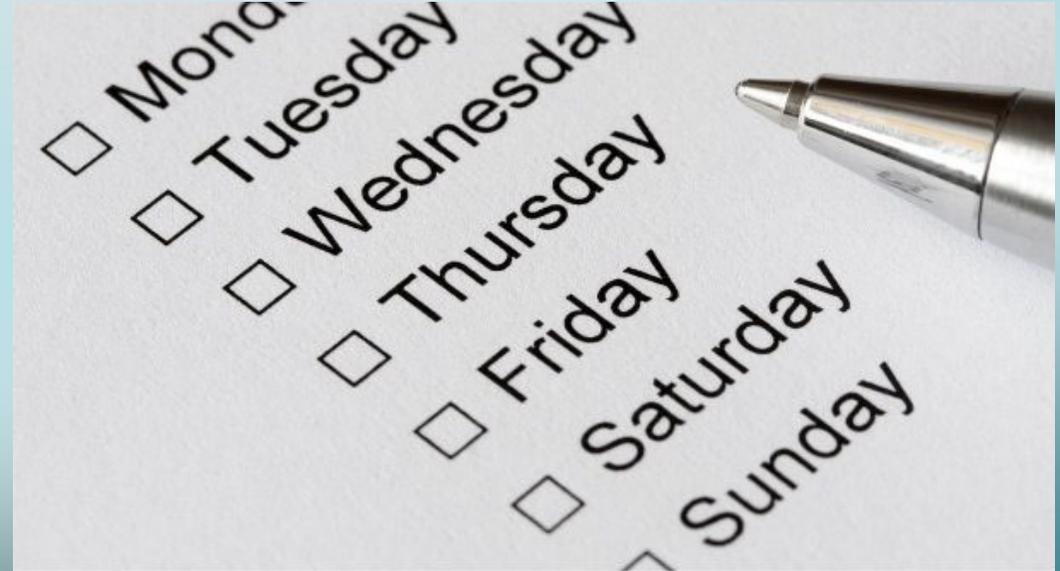
Overtime

- Overtime is paid out when an employee **exceeds 40 hours in a single workweek.**
- **Employee should be paid 1.5x their normal rate of pay.**



Workweek Defined

- A workweek is a 168 hour rolling 7 day period determined by the employer.
 - Employer chooses the start date.
 - This date may only be changed if the intent is for it to be permanent.



Overtime Errors

- FLSA requires that overtime be paid out as it is accrued.
 - It cannot be issued later as a bonus.
 - Employees cannot “bank” hours.
- Employees working piece rate must still receive overtime pay if they cross the hour thresholds.



Exempt Vs. Non-Exempt

- Some types of employees can be classified as “Exempt”, meaning they are ineligible to receive overtime.
- More commonly we refer to these as “salaried” employees.



Exempt Requirements

- In order to classify someone as exempt the employee must:
 - Receive at least \$684 dollars in pay per week.
 - (\$17.10 per hour)
 - (\$35,568 annually)
 - This pay cannot be contingent on available work.
 - The employer is allowed to use commissions, bonuses, or other incentives to make up 10% of the salary requirement.
 - Not be performing manual labor.



Example 1: Superintendent

- Responsibilities:
 - Jobsite Supervision
 - Bill Approval
 - Customer Satisfaction
 - Quality Control
 - Punch List
- Paid \$31 per hour.
- Can we move this employee to exempt?



Example 2: Foreman

- Responsibilities:
 - Oversees 7 man fence installation crew
 - Operates forklift and attachments for loading and unloading of trucks and moving materials
 - Must be able to lift 100 lbs.
- Paid \$28 per hour
- Can we move this employee to exempt?



Example 3: Purchasing Agent

- Responsibilities:
 - Evaluates Suppliers
 - Negotiates Contracts
 - Reviews Material Quality
- Paid \$16 per hour.
- Can we move this employee to exempt?



Pay Deductions

- We move our superintendent over to a salaried classification.
- During the next pay period he leaves for two hours for a dentist appointment.
- Can we dock his pay to cover the two hours?



Pay Deductions

- Some legal situations where an employer may deduct pay:
 - Employee is absent from work for one or more full days for personal reasons other than 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 policy or practice of providing compensation for salary lost due to illness.
 - To offset amounts employees receive as jury/witness fees or military pay.
 - For penalties imposed in good faith for infractions of safety rules of major significance.
 - Unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

Child Labor Laws

- Pages 102-103
- Employers must obtain a work permit or age certificate for minors under the age of 18.
- Minors under the age of 16 have hour restrictions imposed as well.
 - May not work before 7:00 AM or after 7:00 PM
 - Hours extend to 9:00 PM from June 1st to Labor Day
 - No more than 4 hours of work on a school day.



Required Breaks

- Utah requires meal and rest breaks for employees under the age of 18.
- **Meal break must be 30 minutes at minimum.**
- No later than 5 hours after work begins.



Hazardous Jobs

Code	Job
HO5	Power-driven woodworking machines.
HO7	Power-driven hoisting apparatus.
HO8	Power-driven metal-forming, punching, and shearing machines.
HO12	Balers, compactors, and paper-products machines.
HO13	Manufacturing brick, tile, and related products.
HO14	Power-driven circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.
HO15	Wrecking, demolition, and shipbreaking operations.
HO16	Roofing operations and all work on or about a roof.
HO17	Excavation operations.

Holidays

- Neither FLSA nor Utah law outline any paid holidays in the calendar.
- Though it's common to see holidays paid at time and a half, there is no requirement for an employer to do so.



Sick / Vacation Pay

- In a similar fashion, neither law offers requirements for vacation or sick pay.



Voting Leave

- Utah law requires employers to offer up to 2 hours of paid time off for voting leave.
- Does not apply when the employee has 3 or more hours between the time polls open and close where they are off the clock.



Family Medical Leave Act

- Private sector employers must follow FMLA when they exceed **50 or more employees**.
- Employees are entitled to twelve weeks of unpaid absence for:
 - The birth or adoption of a child, and necessary care within the first year.
 - To care for a spouse, child or parent, with a serious health condition.
 - A serious health condition that makes the employee unable to perform his or her job.
- FMLA does not cover bereavement.



At Will Employment

- Utah law allows either an employee or employer to terminate their relationship at any time without notice.
- Not to be confused with “Right To Work” which refers to unions.



Discrimination

- Title VII Of The Civil Rights Act Of 1964
 - Prohibits discrimination for race, color, religion, national origin, gender.
 - Applies to employers with 15 or more employees.
- Age Discrimination In Employment Act Of 1967 (ADEA)
 - Prohibits discrimination against individuals who are 40 years of age or older.
 - Applies to companies with 20 or more employees.
- Americans With Disabilities Act Of 1990 (ADA)
 - Prohibits discrimination for disabilities.
 - Applies to employers with 15 or more employees.

Veteran Preference Policy

- Employers may, if desired, create a company policy that **prioritizes hiring veterans or spouses of veterans.**
- **Having such a policy is not a violation of the Utah Antidiscrimination Act.**

