

**Wage and Hour Crackdown**  
April 29, 2014  
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This presentation is intended solely for informational purposes, and is not offered as legal advice.

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**Obama Administration proposed budget for 2015**

- 11.8 billion dollars in discretionary funding for Department of Labor

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**Obama Administration proposed budget for 2015**

- Increase of 41 million dollars (19%) for DOL Wage Hour Division
  - Designed to enable WHD to hire 300 new investigators to increase enforcement of minimum wage, overtime, and FMLA

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Obama Administration proposed budget for 2015

- Increase in 14 million dollars to combat misclassification of workers as independent contractors
  - 4 million dollars to DOL Wage Hour Division to investigate misclassification
  - 10 million dollars for grants to states to investigate misclassifications and recover unpaid taxes

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Obama Administration proposed budget for 2015

- White House states WHD would use increased funding to focus on “industries and employers most likely to break the law.”
  - WHD targets have included
    - Restaurants
    - Hotels
    - Construction
    - Janitorial Services

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Obama Administration proposed budget for 2015

- Employers should
  - Audit their minimum wage and overtime pay practices for compliance with DOL rules for calculating hours worked
  - Audit their classifications of employees as FLSA exempt
  - Audit their classification of workers as independent contractors

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**The DOL Low Wage Industries Initiative**

- Enforcement efforts focused on industries where employees make minimum wage;
  - Hospitality; Restaurant; Landscaping; Janitorial; Temporary Help; Day Care; Guard Services; Garment; Agriculture

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**The DOL Misclassification Initiative**

- Targets industries which DOL believes often misclassify employees as independent contractors
  - Construction, Janitorial, Home Health Care, Child Care, Transportation, Warehousing, Meat and Poultry Processing, Landscaping, Professional Services, Personnel Services

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**The DOL Misclassification Initiative**

- Is worker an employee or independent contractor?
  - If employee then FLSA can apply
  - If independent contractor then FLSA does not apply

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - Status as employee is not determined by common law test for master and servant
  - Under FLSA, “economic realities” test controls

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at (1) the extent to which the work is an integral part of the employer’s business

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at (2) the permanency of the relationship

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at
    - (3) the worker’s investment in facilities and equipment

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at:
    - (4) the nature and degree of control by the employer

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at
    - (5) the worker’s opportunities for profit and loss

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at (6) the amount of initiative, judgment, or foresight in open market competition with others required for the success of the worker

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test looks at (7) the degree of independent business organization and operation

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The DOL Misclassification Initiative

- Is worker an employee or independent contractor?
  - DOL “economic realities” test does *not* look at
    - where work is performed
    - the absence of a formal employment agreement
    - whether an alleged independent contractor is licensed by state or local government
    - the time or mode of pay

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The DOL Misclassification Initiative

- Frequent misclassification scenarios identified by DOL
  - “One of the most common problems is in the construction industry where contractors hire so-called independent contractors, who in reality should be considered employees because they do not meet the tests for independence” (DOL Wage and Hour Fact Sheet # 13.)

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The DOL Misclassification Initiative

- Frequent misclassification scenarios identified by DOL
  - “Franchise arrangements - depending on the level of control the franchisor has over the franchisee, employees of the franchisee may be considered to be employed by the franchisor.” (DOL Wage and Hour Fact Sheet # 13.)

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The DOL Misclassification Initiative

- Frequent misclassification scenarios identified by DOL
  - “A person who is an employee cannot ‘volunteer’ his services to the employer to perform the same type of service performed as an employee. Of course, individuals may volunteer or donate their services to religious, public service, and non-profit organizations, without contemplation of pay, and not be considered employees of such organization.” (DOL Wage and Hour Fact Sheet # 13.)

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**The DOL Misclassification Initiative**

- Bowlin Group LLC and subsidiary Bowlin Services LLC consent judgment (2013)
  - Company classified some cable TV, phone and internet installers as employees and others as independent contractors
  - Company paid all workers based on pieces of equipment installed; failed to pay overtime; failed to keep records of hours worked
  - Company required to pay 196 workers a total of \$1,075,000 in back wages and liquidated damages

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**The DOL Fissured Industries Initiative**

- Targets industries that rely on indirect employment methods such as subcontracting, temporary employment, professional employer organizations, and franchising
  - Specifically targets construction, janitorial, hospitality, food services, and home health care industries
  - Restaurant franchises are a target “fissured industry”

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**Obama Attack on FLSA Exemptions**

- On March 13, 2014, President Obama issued a Presidential Memorandum to the Secretary of the United States Department of Labor titled “Updating and Modernizing Overtime Regulations.”
- The same day, the White House released a fact sheet titled “Opportunity for All: Rewarding Hard Work by Strengthening Overtime Protections.”
- These pronouncements signal the beginning of a clear effort by the Obama administration to significantly restrict the white collar exemptions.

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Obama Attack on FLSA Exemptions

- The Presidential Memorandum states that “regulations regarding exemptions from the [FLSA’s] overtime requirement, particularly for executive, administrative and professional employees ... have not kept up with our modern economy” and that “because these regulations are outdated, millions of Americans lack the protections of overtime and even the right to the minimum wage.”

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Obama Attack on FLSA Exemptions

- The Presidential Memorandum directs the Secretary of the Department of Labor to “propose revisions to modernize and streamline the existing overtime regulations.”

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Obama Attack on FLSA Exemptions

- “Executive Employees” - current regulations:
  - Employee is exempt executive employee if he is compensated on a salary basis at a rate of not less than **\$455 per week**, his **primary duty** is management, he customarily and regularly directs the work of two or more other employees, and he has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight. (29 C.F.R. § 541.100.)

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Obama Attack on FLSA Exemptions

- “Administrative” Employees - current regulations:
  - Employee is an exempt administrative employee if he is compensated on a salary or fee basis at a rate of not less than **\$455 per week**, his **primary duty** is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers, and his **primary duty** includes the exercise of discretion and independent judgment with respect to matters of significance. (29 C.F.R. § 541.200.)

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Obama Attack on FLSA Exemptions

- “Administrative” Employees - current regulations:
  - This exemption also applies to employee who is compensated on a salary or fee basis at a rate of not less than **\$455 per week** or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed, and whose **primary duty** is performing administrative functions directly related to academic instruction or training in an educational establishment. (29 C.F.R. § 541.204.)

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Obama Attack on FLSA Exemptions

- Professional Employees - current regulations:
  - An employee is an exempt “professional” employee if he is compensated on a salary or fee basis at a rate of not less than **\$455 per week** and his **primary duty** is the performance of work (a) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or (“learned professionals”) (b) requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (“creative professionals”). (29 C.F.R. § 541.300.)

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Obama Attack on FLSA Exemptions

- Professional Employees - current regulations:
  - An employee, regardless of his salary, also is an exempt professional employee if his **primary duty** is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge a teacher in an educational establishment (29 C.F.R. § 541.303) or if he is engaged in the practice of law or medicine (29 C.F.R. § 541.304).

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Obama Attack on FLSA Exemptions

- Computer Employees - current regulations:
  - Employee is an exempt "computer employee" if he is compensated on a salary or fee basis at a rate of not less than **\$455 per week** or he is compensated on an hourly basis at a rate not less than \$27.63 per hour, and his **primary duty** consists of (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications, (2) the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications, (3) the design, documentation, testing, creation or modification of computer programs related to machine operating systems, or (4) a combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. § 541.400).

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Obama Attack on FLSA Exemptions

- \$455 Weekly Wage Threshold
  - It is likely DOL will increase the \$455 weekly wage threshold
    - According to the White House fact sheet: "That threshold has failed to keep up with inflation, only being updated twice in the last 40 years and leaving millions of low-paid, salaried workers without these basic protections."

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Obama Attack on FLSA Exemptions

- \$455 Weekly Wage Threshold
  - *If the wage threshold is increased, employers will have to increase salaries of exempt workers or pay those employees on a non-exempt basis*

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Obama Attack on FLSA Exemptions

- "Primary Duty" Test
  - Current regulations: "The term 'primary duty' means the principal, main, major or most important duty that the employee performs." (29 C.F.R. § 541.700.)

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Obama Attack on FLSA Exemptions

- "Primary Duty" Test
  - Current regulations (29 C.F.R. § 541.700): Factors to consider include but are not limited to
    - the relative importance of the exempt duties as compared with other types of duties;
    - the amount of time spent performing exempt work;
    - the employee's relative freedom from direct supervision;
    - the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

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- “Primary Duty” Test
  - Current regulations (29 C.F.R. § 541.700): A duty may be an employee’s primary duty even though he does not spend the majority of his time performing it. “Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.”

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Obama Attack on FLSA Exemptions

- “Primary Duty” Test
  - It is likely DOL will change the “primary duty” test. New regulations may impose a numerical threshold, such fifty percent or more, upon the time spent performing a duty in order for that duty to be a primary duty.

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Obama Attack on FLSA Exemptions

- “Primary Duty” Test
  - ***If the primary duty test is changed, then many jobs which currently meet the primary duty test no longer will do so, and employers will have to either pay overtime compensation to the employees performing those jobs or change the job duties of the job to meet the new test.***

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Under current regulations, exempt work includes not only work which meets the primary duty test, but also work which is “directly and closely related” to the performance of those duties.

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Current regulations: “‘Directly and closely related’ means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work.” (29 C.F.R. § 541.703.)

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Current regulations: “Directly and closely related work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee’s exempt work cannot be performed properly.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Current regulations: “Work directly and closely related to the performance of exempt duties may also include recordkeeping, monitoring and adjusting machinery, taking notes, using the computer to create documents or presentations, opening the mail for the purpose of reading it and making decisions, and using a photocopier or fax machine.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Example from current regulations: “Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive’s function of managing a department and supervising employees.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Example from current regulations: “A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Current regulations: “The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Example from current regulations: “A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. ... In some cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform... Particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work.” (29 C.F.R. § 541.703.)

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**Obama Attack on FLSA Exemptions**

- “Directly and Closely Related”
  - Example from current regulations: “A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions.” (29 C.F.R. § 541.703.)

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Example from current regulations: “A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. ... Because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work.” (29 C.F.R. § 541.703.)

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Example from current regulations: “A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing exempt administrative work. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies.” (29 C.F.R. § 541.703.)

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - Current regulations: “Work is not directly and closely related if the work is *remotely related* or *completely unrelated* to exempt duties.” (29 C.F.R. § 541.703.)

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - It is likely that DOL will adopt a more restrictive definition of work directly and closely related to exempt work.
  - Conceivably, DOL could even eliminate the “directly and closely related” provisions entirely, and could measure exemptions solely based on the performance of clearly exempt duties

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Obama Attack on FLSA Exemptions

- “Directly and Closely Related”
  - *If the “directly and closely related” rules are changed in the new regulations, then employers will lose the ability to claim these exemptions for many currently exempt employees.*

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- On October 1, 2013, the DOL published new final regulations for the FLSA exemptions applicable to employees providing companionship services and live-in domestic service employees.
- These changes, which go into effect on January 1, 2015, are extremely important to all employers of workers in the domestic service industry.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Before 1974 there was no individual coverage under the Fair Labor Standards Act for domestic service workers. The FLSA minimum wage and overtime compensation provisions of the Act applied to domestic service workers only if they were employed by a covered entity.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- In 1974 Congress amended the FLSA to extend coverage to all domestic service workers, including those employed by companies too small to be covered by the Act and those employed by private households.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- In 1974 Congress also created
  - an exemption from the minimum wage and overtime compensation requirements for domestic service workers who provide “companionship services” and
  - an exemption from the overtime compensation requirement for domestic service workers who reside in the households in which they provide services.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- In 1975, the DOL adopted regulations implementing the exemptions for companionship service employees and live-in domestic service employees.
- The regulations allowed third party employers to claim both exemptions.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- On December 30, 1993, DOL published a notice of proposed rulemaking proposing to revise the regulations to require that, in order for the exemptions to apply, companionship service employees and live-in domestic service employees who are employed by a third party employer or agency must be jointly employed by the individual, family, or household using their services.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- On January 19, 2001, DOL published a notice of proposed rulemaking proposing to amend the regulations to revise the definition of companionship services and revise the rules regarding third party employment

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- December 27, 2011, the Department published a notice of proposed rulemaking proposing changes to the exemptions for companionship service employees and live-in domestic service employees.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- On October 1, 2013, DOL issued final regulations adopting the 2011 proposed regulations with some modifications. These final regulations go into effect on January 1, 2015.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Third Party Employers
  - Under the new regulations, third party employers of home care workers **cannot claim the companionship service exemption**, even if the worker is jointly employed by the third party employer and the service recipient.

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - The new regulations narrow the definition of companionship services

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**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - Companionship service now limited to “the provision of *fellowship* and *protection* for an elderly person or person with an illness, injury, or disability who requires assistance in caring for himself or herself.” (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “Fellowship” means to engage the person in social, physical, and mental activities, such as conversation, reading, games, crafts, or accompanying the person on walks, on errands, to appointments, or to social events.(29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “Protection” means to be present with the person in his or her home or to accompany the person when outside of the home to monitor the person’s safety and well-being. (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “Companionship services” also includes the provision of *care* if the care is provided attendant to and in conjunction with the provision of fellowship and protection and if it does not exceed 20 percent of the total hours worked per person and per workweek. (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “The provision of care” means to assist the person with *activities of daily living* such as dressing, grooming, feeding, bathing, toileting, and transferring, and *instrumental activities of daily living*, which are tasks that enable a person to live independently at home, such as meal preparation, driving, light housework, managing finances, assistance with the physical taking of medications, and arranging medical care. (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “Companionship service” does not include domestic services performed primarily for the benefit of other members of the household. (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - “Companionship service” does not include the performance of *medically related services* provided for the person. (29 C.F.R. § 552.6.)
  - Whether services are medically related is based on whether the services typically require and are performed by trained personnel, such as registered nurses, licensed practical nurses, or certified nursing assistants; the determination is not based on the actual training or occupational title of the individual performing the services. (29 C.F.R. § 552.6.)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - Very few home care aides will be able to limit the “care” they provide to the service recipient to 20 percent of their working hours. Therefore, ***the new regulations effectively gut the companionship service exemption.***

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Exemptions for Companionship Service and Live-In Domestic Service Employees**

- Companionship Services Limited
  - Because both direct and third party employers will be required to pay overtime under the new regulations, *the expected effect of the regulations is that employers will limit the hours of home care aides.*

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Written Policies Every Employer Should Have**

- Fair Labor Standards Act compliance policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Written Policies Every Employer Should Have**

- Minimum wage policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Overtime compensation policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Meal and rest break policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Travel time policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- "On call" policy

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Policy on work performed at home or away from workplace
  - Phone calls
  - E-mails
  - Text messages

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Policy requiring accurate recordkeeping of hours worked

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Policy prohibiting off-the-clock work

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Policy prohibiting falsification of time records

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Written Policies Every Employer Should Have

- Compliance and investigation procedure for wage hour issues

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Written Policies Every Employer Should Have**

- Prohibition against retaliation in wage hour matters

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Wage Hour Training**

- Managers should receive training in wage hour laws and compliance
  - Upon promotion to manager
  - Regular intervals (every 2 years recommended)

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen**

#10: "My brother in law said what we do is fine."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#9: "We never knew any law required *that*."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#8: "We need to do it this way."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#8: "What we do is fair."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#7: "What we do is reasonable."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#6: "Everyone does it this way."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#4: "We've always done it this way."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#3: "No one has ever complained about us doing it this way."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#2: "Our employees want us to do to this way."

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

Top Ten Things Employers Say That Tell You They Are a Fair Labor Standards Claim Waiting to Happen

#1: "What is the Fair Labor Standard Act?"

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**Wage and Hour Crackdown**  
Raymond L. Hogge, Jr.

**For assistance in compliance with  
the Fair Labor Standards Act  
and other Federal and State laws  
please contact Hogge Law**

**For other labor and employment law resources  
for Virginia employers  
visit [VirginiaLaborLaw.com](http://VirginiaLaborLaw.com)**

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