



# OFF TO WORK

*What you need to know about documents, wages and taxes*

## Documents

After you are offered a job, an employer must ask you for information about your eligibility to work in the United States.

You must show certain documents to an employer to prove you are eligible to work. This is true even if you are a U.S. citizen. You cannot work otherwise. There is a list of documents to prove your eligibility. You choose which ones on the list you want to show. Some of the documents on the list are a birth certificate, driver's license, and a passport. You don't have to give your social security number, unless you are hired by employers using the United States Citizenship and Immigration Services Employment Eligibility Verification Program (e-verify).

The employer must write the information onto a form called an "I-9." The employer may photocopy the documents.

What if you don't have the necessary documents? The employer must give you 3 days to show that you have applied for the document. You then have 90 days to provide a replacement document. See <http://www.uscis.gov>.

## Your employee status

Find out if your new employer thinks you are an "employee" or an "independent contractor."

If you are an "employee," your employer:

- Must pay part of your Social Security tax.
- Will give you a W-2 form at tax time.
- Will withhold taxes for you and pay them to the government.
- Will carry Workers Compensation insurance for you.

If you are an "independent contractor":

- You must pay the entire tax. Your employer does not pay any of it.
- You must also withhold your own state and federal taxes and pay them to the government.

- You may not be covered by Workers Compensation insurance.
- Your employer will give you a "1099" form at tax time instead of a W-2 form.

Don't let your employer call you an independent contractor if your employer controls the way you do your work, or if you can't do the work without your employer giving you supplies, tools or transportation.

## Items on your pay stub

Make sure your employer has your correct Social Security Number (SSN). Look at your first paycheck or pay receipt if you are paid in cash. Is the Social Security Number correct? Tell your employer if the number or spelling of your name is wrong.

You will see the term "gross pay" or earnings. This is the pay owed you before any deductions. You will also see the term "net pay." This means the money you get after taxes and deductions are subtracted from your gross pay.

## Social Security taxes

Your employer must deduct "Social Security" taxes from your pay if you are an "employee." You will see a deduction for "Social Security" taxes on your pay stub. They also can be called "F.I.C.A." or "Social Security and Medicare."

You do not have a choice about having this tax taken from your pay.

The total Social Security tax is 15.3% of your gross pay. You pay half of this tax (7.65%) if you are an employee. Your employer pays the other half.

Go to the Social Security office once a year. Check to make sure the employer is depositing the tax into your SSN account or call 1-800-772-1213. Social Security website is <http://www.ssa.gov>.

## Federal income taxes

The employer usually must withhold federal taxes from your pay if the employer is required to withhold Social Security taxes.

Your employer should give you a "W-4" from when you first begin work. This form will help you figure out how much tax should be withheld from your pay.

Call your local Internal Revenue Service office if you don't understand the form. They will give you free advice. Look under "U.S. Government" in the telephone book to find their telephone number or call 1-800-829-1040.

Most low-income workers can get the Earned Income Tax Credit (EITC) when they file their federal income taxes. Some low-income workers with a qualifying child can get the Advance EITC in their paychecks. You need to fill out a form W-5 and give it to your employer.

## Your hourly wage

As of July 24, 2008, the minimum wage for most jobs is \$6.55 per hour. As of July 24, 2009, the amount is \$7.25.

What if you do "piece work?" The employer must pay you at least \$6.55 per hour. This is true even if you do not produce enough.

How do you know your true hourly rate? Divide your gross earnings by the number of hours you worked in a week. This will give you your hourly rate.

Did you work overtime? If so, your employer probably owes you at least 1½ times your hourly rate (time and a half) for the overtime hours. Figure the overtime hours separately.

There are some jobs where the employer does not have to pay the federal minimum wage or overtime. Call the Wage and Hour Division of the U.S. Department of Labor if you have questions. Look under "U.S. Government" in the telephone book, call 1-866-4-USA-DOL or see <http://www.dol.gov>.

## Other items affecting your pay

- Do you travel between work sites? Do you spend time waiting for work at the job site? Does your employer have rules about arriving for work early and staying over when the work is done?

If any of those apply to you, you may be able to be paid for that time. You also may be paid if you have to work through lunch or during breaks.

- Are you working on a construction project paid for with federal money? If so, you may be entitled to a “prevailing wage.” The prevailing wage is almost always higher than the federal minimum wage.

## If you don’t understand your hourly wage

Talk to your employer if you do not understand your hourly wage. What if you do not believe you are making the minimum wage and your employer won’t talk to you about it? If so, the Wage and Hour Division of the U.S. Department of Labor can help you.

You do not need a lawyer to contact the Wage and Hour Division. However, it may be wise to talk to a lawyer first. This will help you to see if there are any other problems related to your employment.

## REMEMBER:

- You must be paid at least \$6.55 per hour (or \$7.25 after July 24, 2009).
- You may have the right to “time and a half” (overtime).
- Your employer must deduct Social Security taxes, federal income tax, and state income tax.
- Don’t let your employer call you an independent contractor if your employer controls the way you do your work, or if you can’t do the work without your employer giving you supplies, tools or transportation.

**This brochure prepared in February 2009 gives you general information, not legal advice. You can get legal advice only from a lawyer. Deadlines are extremely important in most legal matters.**

*Please see a lawyer about specific questions.*

**For more information contact:**

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