

JAN 23 1995

This is in response to your letter concerning the method used by one of your clients to make deductions from the salaries of employees who are exempt under section 13(a)(1) of the Fair Labor Standards Act (FLSA).

You state that the client until recently utilized a traditional 5-day 40-hour workweek. If an exempt employee was absent from work for a day or more for personal reasons or sickness, the employee was subject to a pay reduction as permitted by Regulations, 29 CFR Part 541.118. The client has now made a change in this method by implementing an alternative workweek schedule that gives employees every other Friday off. You state that the employees' workweek now begins on Friday at 11 a.m. and ends the following Friday at 11 a.m. The employees are now scheduled to work the following hours in the workweek.

Friday	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
4	0	0	9	9	9	9	0
0	0	0	9	9	9	9	4

Under this work schedule, if one of your client's exempt employees is absent from work, for example, on Tuesday and the employee elects to have his or her pay reduced, nine hours of pay is deducted from the employee's salary. For the following reasons it is our opinion that this method of reducing the amount of an exempt employees salary is not in compliance with the "salary basis" of payment, as discussed in section 541.118 of the Regulations.

The salary requirement in the case of an exempt executive, administrative, or professional employee contemplates payment for certain duties and responsibilities whose worth cannot be measured by the time spent in their performance. Consequently, it has been our longstanding position that we do not take a

particular number of hours as constituting a day for salary deduction purposes, as permitted in section 541.118 of the Regulations.

In considering your client's situation, where the employer and the bona fide executive, administrative and professional employees have agreed to a five-day work schedule within a workweek, the amount which may be deducted from the employee's weekly salary must be calculated on the basis of one-fifth of the employee's guaranteed salary. The daily amount thus computed is applicable regardless of the number of hours the employee is scheduled to work.

We trust that this satisfactorily responds to your inquiry.

Sincerely,

Daniel F. Sweeney
Deputy Assistant Administrator