

COMPLIANCE SNAPSHOT

Paid vs. Unpaid Breaks Under the FLSA

The Fair Labor Standards Act (FLSA) requires employers to pay their employees for all hours they are “suffered or permitted to work.” These hours are known as “work hours” or compensable time. Compensable time includes all hours during which an individual is actually performing productive work and all hours an employee is required by his or her employer to remain available for the next assignment. Compensable time does not include periods where an individual is relieved of all obligations and is free to pursue his or her own interests.

Rest Periods Under 20 Minutes

Short rest periods, usually 20 minutes or less, are common and customarily counted as hours of work and are, therefore, paid for as working time.

Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that:

- The authorized break may only last for a specific length of time;
- Any extension of the break is contrary to the employer’s rules; and
- Any extension of the break will be punished.

Meal Periods of 30 Minutes or More

In general, bona fide meal periods (typically 30 minutes or more) need not be compensated as work time.

However, employees must be completely relieved from duty for the purpose of eating regular meals. Employees are not relieved if they are required to perform any duties, whether active or inactive, while eating. Employers may need to count interrupted meal breaks as hours worked and compensate their employees accordingly.

Provided to you by IDR Specialty

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On-duty Employees

To calculate an employee’s compensable time, employers must determine whether an employee is “on duty.”

The hours an employee is on duty are compensable because the employer effectively controls the employee’s time, even when waiting is part of the job or when the employee is allowed to use the time for his or her own purposes.

Typical Problems

Problems arise when employers fail to recognize and count certain hours worked as compensable hours.

For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.