



\$90 Million Overtime Verdict Stands

In last month's issue we talked about the DOL's crackdown on exempt employee classification. Well, late last year the U.S Supreme Court let stand a California appeals court ruling involving overtime pay for insurance adjusters. The case involved some 2,400 Farmers Insurance Exchange adjusters who were awarded more than \$90 million after the state Court of Appeal ruled that for eight years, they were improperly classified as "administrators" and should not have been exempt from the state's overtime laws. The verdict was based on an estimate of the unpaid overtime derived from a deposition of a sample of 295 adjusters. (Farmers Ins. Exchange v. Bell, U.S., No. 01-485, cert. denied 11/26/01)

ALLEGIANT Launches Redesigned Web Site

On February 1st we deployed a new web site designed to provide clients with up-to-date information and easy access to forms that may be needed to manage their employees. As part of this effort we have attempted to convert all of our forms to a PDF format so that clients can download and print what they need, when they need it. Give us a visit today by going to

www.allegiant-mgmt.com

"Business without profit is not business any more than a pickle is candy."

Charles F. Abbot

PENSION REFORM

■ It's still may not be too late to increase your retirement savings for 2001

The Economic Growth and Tax Relief Reconciliation Act of 2001 contains a variety of provisions designed to help boost American's retirement savings. Surveys have shown that Americans age 45-54 reported only an average of \$36,740 in total retirement savings and those over age 55 reported an average of only \$33,980 in savings. If those over age 50 do not drastically increase their savings, they will be working well past age 65, as they will be unable to afford to retire. Under the new law, workers aged 50 or more can make catchup contributions to defined contribution plans IRA accounts.

Catchup contributions for 401(k), 403(b) and SEPs will be an extra \$1,000 a year starting in 2001 until reaching \$5,000 per year in 2006. Catchup contributions for SIMPLE plans will be an extra \$500 per year starting in 2002 until it reaches \$2,500 in 2006. These catchup contributions are not required to be included in the nondiscrimination ADP testing, which is good news for highly compensated employees. The new law also increases the amounts that can be contributed to these plans by all individuals.

▶ **New IRA's Amounts.** The law gradually increases the contribution limits to \$3,000 for 2002 to 2004, \$4000 for 2005-2007, and \$5000 per year in 2008 and thereafter, with indexing for inflation after 2008 in increments of \$500.00. Workers over age 50 will be able to contribute an extra \$500 a year from 2002 to 2005 and an extra \$1,000 in 2006.

▶ **New Defined Contribution Amounts.** The dollar limit for annual elective deferrals for Sections 401(k), 403(b) annuities, and 457, and salary-reduction SEPs (simplified employee pension plans) will increase to \$11,000 in 2002; \$12,000 in 2003; \$13,000 in 2004; \$14,000 in 2005; and \$15,000 in 2006. After 2006, the amount will be increased in \$500.00 increments.

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401(k) Enrollment Deadline

■ If you need to increase your 401(k) payroll deduction, now is the time

Eligible employees may join Allegiant's 401(k) Plan as of April 1, 2002. Enrollment forms must be returned by Friday, March 29, 2002. Please request an enrollment package at least 2 weeks prior to the deadline.

To be eligible, you must have been employed by Allegiant for at least 6 months and must be over the age of 21 years. The next open enrollment deadline will be July 1, 2002. Employees who are in the plan may also change their contribution amount (the amount that is deducted from your paycheck) as of the first of each quarter. Should you have any questions or would like an enrollment kit or payroll deduction change form, please contact our Human Resource Department at 1-800-525-2901.

- ▶ **SIMPLE plan limits.** The law increases the maximum elective deferrals to \$7,000 in 2002, \$8,000 in 2003, \$9,000 in 2004, and \$10,000 in 2005. The amounts will then increase in \$500 increments.

Under the prior law the most someone could contribute was either \$10,500 or 25% of their adjustable gross income whichever is less. Therefore, the maximum someone earning \$20,000 per year could contribute was \$5,000.00, well below the \$10,500.00 limit. The 25 percent of compensation limit will be increased to 100% for defined contribution and 457(b) plans for plan years beginning after December 31, 2001. Once this change becomes effective Allegiant will no longer need to take out the amount of Section 125 insurance premiums prior to determining the 401(k) contribution. This change will allow individuals to contribute more into the 401(k) plan.

The catch up provisions are important even for lower income workers because most individuals are able to save a greater portion of their income later in life when the mortgage and college bills are paid off or represent a smaller portion of their income. Furthermore, many of these workers also did not have the benefit of 401(k) plans or IRAs since they have only been existence since 1981.

Take the example of someone now aged 50 who earns \$35,000. By law they were only able to contribute \$8,750 into their 401(k) plan due to the 25% rule. With the catchup contribution they could now contribute \$13,750 a year. Under the new law, if someone aged 50 could contribute the maximum \$15,000 every year and earn 10% on those savings they would have \$477,000 saved at age 65. Although this sounds like a lot of money, if this person lives for another 30 years after retirement and is able to earn 8% return, they would be able to draw \$42,300 a year. But then considering a modest inflation rate of 4%, 15 years from now at retirement that annual payment of \$42,300 will only have the buying power of \$23,500. Ten years for then at age 75, than same \$42,300 will only have the buying power of \$15,900 annually. Thus even with the \$5,000 in catchup contributions many will still not have enough saved to live comfortably in their retirement years.

Other Provisions of the new law Include:

- ▶ A reduction to either a three-year cliff or five-year gradual vesting for employer matching contributions.
- ▶ Rollovers contributions from 401(k), 403(b) and 457 plans, IRAs and plan participants' deceased spouse's plans may now be rolled into any of those types of plans. However, qualified plans will still be unable to accept rollovers from IRAs that contain after tax dollars or nondeductible IRA amounts.
- ▶ The law also repeals the same-desk rule that prevented employees from rolling over the funds into a new employer plan, after a corporate merger or sale, when the employee basically worked at the same desk job for the new employer.
- ▶ The dollar amount used to determine highly compensated employees is increasing from \$85,000 to \$130,000.



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(Content herein is in no way intended to be legal advice, such should be obtained directly from a lawyer)

How Much Absenteeism is Too Much?

Absenteeism will vary depending on your type of business, the labor situation, your work force composition, seasonal and other factors. However, as a general rule it should be below 4%, except for flu outbreaks or other similar situations. To compute your rate of absenteeism, divide the number of lost days by the number of days that should have been worked.

Suggestions For Dealing With Employee Absenteeism

No matter what your company's policy is on absenteeism, you can use the following guidelines to deal with attendance issues in a fair manner.

Educate. Explain the policy in full to all employees. Provide them with a written plan, and meet with them to go over it. Many companies make the mistake of assuming employees understand the policy, when in fact they don't. If your policy is clearly communicated then it will be difficult for an employee to say they were unaware the job was in jeopardy.

Monitor. Have a notebook, calendar, or some other consistent method that only you use to record daily employee attendance and tardiness. Observe who comes in late, who is early and who is absent. If they are late, absent, or leave early, ask for a reason, and keep a record of the reason.

Counsel. If you have a problem employee, meet with them in private to discuss it. Tell them what you expect, and what you have observed and keep a record of these meeting.

Follow Up. If the behavior occurs again, conduct another private meeting to find out why. Remind the employee of the policy and what the consequences will be if the attendance does not improve.

Take Corrective Action. If attendance continues to be an issue, or the steps outlined in the previous step have not been followed it's time for further action, such as written warnings that clearly spell out that without further improvement, the individual's will be subject to further disciplinary actions such as suspension or termination.