There are many legal concerns surrounding wage and hour issues. It's important to audit your compensation function regularly to ensure you are in compliance with the myriad of state and federal requirements. A few questions to consider are listed below.

I. **Exempt/Non-Exempt Status:** Have you recently reviewed your positions to ensure you have correctly identified exempt and non-exempt positions?

   A. Do you have a process to review and document your exempt/non-exempt decisions?

   B. Is there understanding that to be exempt (and not required to be paid overtime) an employee's position must meet an established test under the federal Fair Labor Standards Act [FLSA] (e.g., executive, administrative, professional, outside sales, computer-related, highly compensated)?

   C. Is there understanding that to be exempt an employee generally must be paid on a salary basis and that the salary may not be reduced based on quality or quantity of work performed?

   D. Do you understand that except in very limited circumstances an exempt employee's salary may not be docked?

II. **Hours Worked (for non-exempt employees):** Do your policies meet legal requirements as to what constitutes "hours worked?"

   A. Do you know when each of the following may be considered compensable work time?

      1. Beeper or "on call" functions.

      2. Meetings.

      3. Education and training.

      4. Preparatory and concluding activities.

      5. Travel time.

      6. Time spent on public or charity work at the employer's request.

      7. Time spent in adjusting grievances.

      8. Time spent receiving medical attention.

   B. Do you have policies in place and are supervisors trained to deal with situations that can trigger overtime implications such as: employees who start work early, work late, take work home, want to work through the lunch hour or seek to "make up" work?

III. **Overtime:** Is overtime properly calculated?

   A. Are all managers aware that hours worked for overtime purposes must generally be calculated over a single workweek period only and that they may not be averaged over 2 or more weeks?

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     B.   Does your overtime calculation correctly include: shift differential, call pay, productivity, attendance, or safety bonuses, and incentive payments dependent on quality, quantity, or efficiency of work?

     C.   Do you have clear policies as to how overtime is authorized and who has the authority to authorize it? Is overtime properly paid even if it has not been appropriately authorized?

IV.   **Rest and Lunch Breaks:** Do employees understand the federal and state break rules?

     A.   Are employees truly relieved of responsibilities at lunch? Do employees have at least a 30-minute duty-free lunch? Relief from responsibilities is required if a lunch is to be unpaid.

     B.   Are you properly paying for your established rest breaks? Rest breaks must be treated as paid work time.

V.   **Compensatory Time:** Is everyone aware that compensatory time in lieu of paid overtime is basically not allowed in the private sector except within the same workweek?

VI.   **Pay Discrimination Issues**: Do you regularly review your salary program to ensure that there are no illegal pay disparities based upon sex, race, or other protected class? Have your examined pay rates of incumbents in the same positions to ensure that any differences are due to experience, performance, or other objective, non-discriminatory factors?

VII.   **Child Labor:** Are you in compliance with federal child labor laws that impose significant restrictions on employment of children under the age of 18? Are you aware of federal hour and hazardous work limitations? Do you know whether your state imposes additional child labor restrictions?

VIII.   **Recordkeeping:** Are you aware of the rules regarding recordkeeping for nonexempt and exempt employees? Do you know how long you must keep related payroll records?

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