

Chapter 1

Snapshot

The following list of questions will provide a snapshot for you to use in determining whether you are in compliance with fundamental wage and hour laws and regulations. You should know the answers to each of these questions. While a “No” answer does not necessarily mean you are in violation of the Fair Labor Standards Act (FLSA), the Tennessee Wage Payment Statute, the Consumer Credit Protection Act, or other federal, state or local laws or regulations, you should understand why you answered “No.” Page numbers have been provided to enable you to determine whether you are in compliance with the appropriate law or regulation.

Yes	No		Page reference
<input type="checkbox"/>	<input type="checkbox"/>	Is the annual gross volume of sales made or business done by your organization \$500,000 or more?	11
<input type="checkbox"/>	<input type="checkbox"/>	Do you hire individuals only as employees?	12
<input type="checkbox"/>	<input type="checkbox"/>	Do you consider leased workers or temporary workers provided by a staffing agency as your employees?	18
<input type="checkbox"/>	<input type="checkbox"/>	Do you always refrain from deducting the costs of meals, lodging, articles of clothing, tools, uniforms, and vehicles from your employee’s pay?	21
<input type="checkbox"/>	<input type="checkbox"/>	Do all of your employees earn more than \$7.25 an hour or more than \$2.13 an hour if they receive tips?.....	23
<input type="checkbox"/>	<input type="checkbox"/>	Are you aware of the amount of tips your employees receive on a monthly basis?	23
<input type="checkbox"/>	<input type="checkbox"/>	Do you pay female employees equal wages as male employees when they perform the same or similar work?	27
<input type="checkbox"/>	<input type="checkbox"/>	Do you know whether the various federal and state discrimination laws apply to you?.....	27
<input type="checkbox"/>	<input type="checkbox"/>	Have you reviewed your compensation system to ascertain whether there are pay disparities amongst certain classes of employees?	27

<input type="checkbox"/>	<input type="checkbox"/>	Do you pay your employees at least twice a month or once every two weeks?.....	29
<input type="checkbox"/>	<input type="checkbox"/>	Do you always pay your employees by cash, check, electronic fund transfer, or payment to a prepaid debit card?.....	29
<input type="checkbox"/>	<input type="checkbox"/>	Do you know how to classify employees as exempt versus non-exempt?	31
<input type="checkbox"/>	<input type="checkbox"/>	Are you familiar with the requirements to qualify for the executive, administrative, professional, outside salesperson, or computer employee exemptions?	31
<input type="checkbox"/>	<input type="checkbox"/>	Are you familiar with the term “primary duty?”	34
<input type="checkbox"/>	<input type="checkbox"/>	Do you know that there is an exemption for highly compensated employees who earn at least \$100,000 per year?	44
<input type="checkbox"/>	<input type="checkbox"/>	Do you always classify employees who perform work involving repetitive operations with their hands, physical skill and energy as non-exempt employees?	49
<input type="checkbox"/>	<input type="checkbox"/>	Do you always pay exempt employees for a full day even if they are absent for a part of the day?.....	50
<input type="checkbox"/>	<input type="checkbox"/>	Do you always compensate your exempt employees for a full day of work when you have closed the office because of inclement weather?	51
<input type="checkbox"/>	<input type="checkbox"/>	If the office is closed for a full week can you refuse to pay your employees for that week?.....	52
<input type="checkbox"/>	<input type="checkbox"/>	If an exempt employee is absent because of jury duty from Tuesday through Friday, must you pay that employee for a full week of work?.....	53
<input type="checkbox"/>	<input type="checkbox"/>	Are you prohibited from compelling an employee to use accrued leave when the employee is absent because of jury duty or because the employee is serving as a witness in a court proceeding?	53
<input type="checkbox"/>	<input type="checkbox"/>	If an exempt employee is absent for one and a half days for personal reasons can you deduct only one full day of pay?.....	54
<input type="checkbox"/>	<input type="checkbox"/>	Can you make deductions from an exempt employee’s pay for absences of less than a full week that resulted from a suspension because the employee violated a workplace rule?.....	54

<input type="checkbox"/>	<input type="checkbox"/>	Can you deduct from an employee’s accrued leave bank for a partial day absence?.....	55
<input type="checkbox"/>	<input type="checkbox"/>	If an exempt employee’s leave bank does not have sufficient accrued leave to cover the employee’s partial day absence, must you then pay that employee for a full day of work?	55
<input type="checkbox"/>	<input type="checkbox"/>	Can you dock an exempt employee’s pay for a partial day absence taken under the Family and Medical Leave Act?	56
<input type="checkbox"/>	<input type="checkbox"/>	Can you pay overtime to exempt employees without losing their exemption?	56
<input type="checkbox"/>	<input type="checkbox"/>	Have you implemented a policy concerning improper deductions from pay?.....	57
<input type="checkbox"/>	<input type="checkbox"/>	Do you know how to remedy an inadvertent deduction in pay from an exempt employee’s salary?	57
<input type="checkbox"/>	<input type="checkbox"/>	If you lose the exemption for one employee, will it be lost as to all employees working in the same job classification and for the same managers responsible for the improper deduction?	57
<input type="checkbox"/>	<input type="checkbox"/>	Have you conducted an audit of the employee classifications, job duties, and pay rates of your employees?	58
<input type="checkbox"/>	<input type="checkbox"/>	If an employee performs work when not requested to do so, must you pay that employee for the work performed but not requested?	59
<input type="checkbox"/>	<input type="checkbox"/>	Do you strictly enforce your overtime policy (one that prohibits employees from performing unauthorized work)?.....	59
<input type="checkbox"/>	<input type="checkbox"/>	Do you always compensate your employees for “waiting time,” “standby time,” or “on call time?”	60
<input type="checkbox"/>	<input type="checkbox"/>	Is there ever a situation where you are required to provide employees with rest or meal periods?.....	61
<input type="checkbox"/>	<input type="checkbox"/>	Do you always pay your employees, who take rest periods for less than twenty minutes, for those rest periods?	61
<input type="checkbox"/>	<input type="checkbox"/>	Do you know how to compensate your employees for time spent traveling in or out of town on business?	63
<input type="checkbox"/>	<input type="checkbox"/>	Is an employee’s time spent attending a training program compensable?	64

<input type="checkbox"/>	<input type="checkbox"/>	If a clerical worker for your organization volunteers to perform clerical work for a fund raising activity for your organization, must you pay her for her time spent on the fund raising work?	65
<input type="checkbox"/>	<input type="checkbox"/>	Can an employer compel an adult employee to work more than 40 hours in a week?	67
<input type="checkbox"/>	<input type="checkbox"/>	Can you exclude discretionary bonuses when calculating a non-exempt employee's regular rate of pay?	69
<input type="checkbox"/>	<input type="checkbox"/>	Do you always include commissions when calculating a non-exempt employee's regular rate of pay for overtime purposes?.....	71
<input type="checkbox"/>	<input type="checkbox"/>	Do you always pay your non-exempt employees overtime pay for time worked in excess of forty hours or do you substitute compensatory time in lieu of overtime pay?	79
<input type="checkbox"/>	<input type="checkbox"/>	Are all of your employees at least 18 years of age?.....	81
<input type="checkbox"/>	<input type="checkbox"/>	If you have any minors working for you who are under the age of 16, do you provide these minors with a rest period after working for five continuous hours?.....	82
<input type="checkbox"/>	<input type="checkbox"/>	Do you prohibit your minor employees from driving company automobiles or trucks?.....	84
<input type="checkbox"/>	<input type="checkbox"/>	Do the wage and hour laws prohibit you from offsetting an employee's wages upon termination of employment for the cost of uniforms, advanced absences, or training?.....	87
<input type="checkbox"/>	<input type="checkbox"/>	Have you instituted a policy that states that commissioned employees forfeit commissions their commissions that have not been paid at the time of separation of employment?	89
<input type="checkbox"/>	<input type="checkbox"/>	Are you prohibited from firing an employee because that employee's disposable earnings have been garnished for any one debt?.....	91
<input type="checkbox"/>	<input type="checkbox"/>	Can you garnish more than 25% of an employee's disposable earnings in a given workweek?	91
<input type="checkbox"/>	<input type="checkbox"/>	If an employee's disposable earnings are being garnished for a support order, are you aware of the increased wage withholding amounts?.....	93
<input type="checkbox"/>	<input type="checkbox"/>	When calculating an employee's disposable earnings, do you	

	include taxes, unemployment insurance, Social Security, union dues and health insurance?.....	93
<input type="checkbox"/>	<input type="checkbox"/> Do you charge different processing fees depending on what type of garnishment order has been issued (such as for support, tax liens, ordinary debt)?	93
<input type="checkbox"/>	<input type="checkbox"/> Do you know how to determine the priority of garnishment orders when you have received multiple garnishment orders for the same employee?	93
<input type="checkbox"/>	<input type="checkbox"/> If 25% of an employee’s disposable earnings are being garnished for a tax lien, and the employee subsequently receives a garnishment for ordinary debt, does the Consumer Credit Protection Act prohibit you from garnishing the employee’s disposable earnings to satisfy the ordinary debt?	94
<input type="checkbox"/>	<input type="checkbox"/> Do you know how to respond to a court-ordered garnishment of an employee’s disposable earnings?.....	95
<input type="checkbox"/>	<input type="checkbox"/> Under the FLSA, are the statutes of limitations different for willful and non-willful violations?.....	100
<input type="checkbox"/>	<input type="checkbox"/> In an action under the FLSA, are you required to pay the employee’s attorneys’ fees if the employee was successful in the action?	100
<input type="checkbox"/>	<input type="checkbox"/> Do you know what records must be maintained for non-exempt employees and what records must be maintained for exempt employees?.....	103
<input type="checkbox"/>	<input type="checkbox"/> Do you keep your payroll or other employee records for at least three years?	105
<input type="checkbox"/>	<input type="checkbox"/> Do you have the required federal and state posters posted at all of your locations, not just your main office?.....	111