

## **GUIDELINES FOR DETERMINING WORK HOURS FOR NONEXEMPT STAFF BUSINESS TRAVEL**

### **Premise for the Guidelines:**

These guidelines are only for the purpose of determining compensable working time for nonexempt staff; please note that reimbursement of travel-related expenses is governed by Corporate Travel policies. Furthermore, these guidelines only apply to those whose nonexempt jobs are eligible for overtime pay under the Fair Labor Standards Act.

### **General Guidelines:**

- The Company does not pay for time spent commuting to work or to an alternate location in the same metropolitan area.
  - Commuting time spent traveling to the office or an alternate location for the day is not compensable working time.
  - If a nonexempt employee has a one-day work assignment in another city, all traveling is counted as time worked except travel time between home and airport or train station as part of a normal commute.
- Compensable business travel generally may include attending work-related activities at a location not in proximity to the normal work location. Such time can be compensable under the guidelines set forth below.
  - The travel to the location would be substantially different than normal commute and would generally require additional time, effort and/or cost.
- The Company pays for all working time spent in business trip travel that does not entail an overnight stay. For work-related functions located in proximity to the normal work location, where additional commuting time is not required, travel to the function from home should be considered as normal commute and not counted toward work hours.
  - Examples of work related activities for employee that would not be considered business travel would be those taking place in office buildings or hotels in and around the Company's offices where the employee departs from home for the alternate work location.
  - If an employee reports to the office in the first instance at the start of the work day, then all travel time thereafter is compensable unless there is an overnight stay and the other rules set forth below are met.
- For functions in the general metropolitan area but requiring significantly additional commuting time, work time should be started after the normal commute would have ended.
  - As an example, if an employee leaving home first thing in the morning needs to attend a meeting on the other side of the city which will require an additional hour over the normal commute to attend, that hour may be appropriately added to the hours worked that day.
  - If the commute time is not in excess of normal (e.g. similar time from the train station but in a different direction) no additional time should be added to work hours.
  - Travel of more than an hour beyond the worker's normal commute is deemed significant and should be compensated.
- For all other travel on the Company business, nonexempt staff are not compensated if: (1) the travel is overnight, (2) on a common carrier, (3) outside of

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regular working hours, and (4) no productive work is performed. However, all four prongs of this test must be satisfied, or the work is compensable. If any prong of the test is not met, then nonexempt staff should be paid for the time spent traveling.

- “Overnight” means that the employee spends the night at a hotel or other accommodation and does not immediately return home. Single day trips are generally compensable where there is no overnight stay.
  - “Common carrier” means a train, plane, subway, bus, taxi, limousine, or passenger in a car. Driving a car, if required by the company, is physical labor and compensable working time. Of course, if the employee chooses to drive after being given the option of travel by a common carrier, then the driving time is not working time.
  - “Outside of regular working hours” means outside of the employee’s core or normal hours of work. If an employee normally works on Monday through Friday 9:00 a.m. to 5:30 p.m., travel during these hours, including on Saturday and Sunday, is compensable.
  - No productive work means that the employee is not engaged in work. If work is done on a plane, for example, that is compensable time.
  - Meal periods where employees are relieved of duties and free to eat while traveling are not compensable working time.
  - Time spent traveling to airports is normally a noncompensable commute, unless the employee has already commuted to work for the day or is traveling to the airport from the office or from home after a day’s work.
  - Time spent in a hotel, otherwise free of duties, is not compensable working time.
- For overnight travel to attend a meeting, the full work-related agenda period would be considered work time. This includes meal times that are imbedded within the meeting, such as lunch time or required “working breakfasts or dinners” where business is being conducted.
    - Meeting preparation and support activities taking place outside of the normal agenda would be considered working time.
    - If breakfast is available prior to the start of business agenda, the voluntary attendance thereat would not be considered working time.
    - If a lunch or dinner or after meeting activity is primarily of a social nature, attendance is voluntary, and no productive work is performed, it would not be considered working time.
    - Required participation in a reception or dinner should be clearly defined in advance of the event and associated overtime hours must be pre-approved by the respective manager. In the event that nonexempt staff voluntarily choose to remain at an event to attend a social function, they should be advised that the time is not compensable.
  - When nonexempt employees engage in international travel, please consult Human Resources for more guidance.
  - For travel by California-based nonexempt staff, please consult Human Resources for more guidance.

**The following example illustrates the rules above:**

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Mary Smith normally works Monday – Friday, from 9 – 5, with a one hour lunch break at 1:00.

One Sunday, she leaves home to take a flight to attend a trade show in Las Vegas that begins on Monday. She leaves her home at noon and arrives at the airport at 1:30 for a flight that departs at 3:00 pm, which lands at 6:00 pm and she arrives at the hotel 7:30 pm. Once in the hotel, she meets a peer for dinner and goes out for a show afterwards.

On Monday, Mary arrives at the booth at 6:30 am to set it up for the trade show beginning at 9:00. She remains at the booth all day, taking a lunch break for an hour, and returning to staff the booth until the trade show ends at 7:00. At 7:00, it takes her 30 minutes to clean and lock the booth. At 8, she goes out for dinner with her boss until 9:30, who has also been in town for the event to discuss the day’s events. After dinner, they meet other business colleagues for drinks and she returns to her room at 10:30.

On Tuesday, since the booth is already set up, Mary arrives at 8:15 and spends 30 minutes setting up the booth to get it ready 15 minutes ahead of the 9:00 am opening. She follows the same schedule as Monday. That evening, she closes the booth, finishing up at 7:30. She then attends the evening dinner dance to which all attendees have been invited.

On Wednesday, she returns home, leaving the hotel at 7:00 am for a 9:00 am flight. The flight lands at noon. Mary returns home at and takes the rest of the day off. On Thursday and Friday, she returns to work and works normally scheduled hours. However, Friday is the day before a long holiday, so the company has an early release on Friday afternoon

How should Mary record and be compensated for her time?

Day	Time Worked	Deduction	Total	Explanation
Sunday	Noon – 5	0	5	She is compensated for the travel time took that place during normal scheduled hours
Monday	6:30 am – 7:30 pm	1 hour for lunch	12 hours	She is compensated for all work time
	8:00 pm – 10:30 pm	1 hour for drinks	1.5 hours	A meeting with the boss to discuss the day’s events is work time; time spent with business colleagues not discussing business is not
Tuesday	8:15 am – 7:30 pm	1 hour for lunch	10.25 hours	Dinner dance is not compulsory and no work is performed
Wednesday	9:00 – 1:30	0	4.5	Travel time outside normal work hours (7:00 am – 9:00 am) is not compensable, but all travel time within work schedule is compensable; note – taking the afternoon

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				off would be recorded as 3 hours of PTO (2:00 – 5:00, since she normally takes lunch from 1:00 – 2:00)
Thursday	9 – 5	1 hour lunch	7	
Friday	9 - 3	1 hour lunch	5	The early release time should be recorded as “Other –Paid” and is not eligible for OT
<b>Total Work Time for the Week</b>			45.25	40 hours regular time, 5 hours of PTO and 5.25 hours at time and one-half rate.