

Time Is Money: A Quick Wage-Hour Tip on ... Time-Rounding

Article By:

Michael S. Kun

For decades, employers have rounded non-exempt employees' work time when calculating their compensation. Maybe they have rounded employee work time to the nearest 10 minutes, maybe to the nearest quarter hour, but they done it and, generally, the courts have approved of it.

But the question employers with time-rounding policies should ask themselves today is this: *Why are we still rounding our employees' time?*

If your answer to that question is *Because we have always done it*, or *Because someone told us it is lawful*, it might be time to rethink the issue.

(And if your answer is *Because rounding time saves us money*, then you definitely need to rethink the issue because under-compensating employees is not a legitimate reason to have such a policy.)

It may well be true that your company has always rounded employee work time. But times have changed, and the reason you did so originally probably no longer exists.

For the most part, necessity was what drove many employers to begin rounding employees' time decades ago.

Rounding time to the nearest 10- or 15-minute interval was considerably easier than having a bookkeeper punch numbers into a calculator or an adding machine to calculate an employee's compensation if, for instance, he or she worked 8 hours and 3 minutes in a day — then repeat that process over and over for each employee for each day or week.

If an employee worked 8 hours and 3 minutes, or 7 hours and 57 minutes, the bookkeeper would just round the time to an even 8 hours, calculate the employee's wages swiftly, and everyone (presumably) would be happy.

Sometimes that time-rounding would benefit the employer (which gained 3 minutes when it rounded time *down* from 8 hours and 3 minutes, say, to 8 hours), and sometimes it would benefit the employees (who would gain three minutes if time was rounded *up* from 7 hours and 57 minutes to 8 hours), but it would all "come out in the wash," the thinking went. Over time, the time rounded down and the time rounded up would all balance out.

And, not unimportantly, the courts have regularly approved such even-handed time-rounding policies.

But, of course, the days of bookkeepers using calculators or adding machines to calculate employees' compensation are largely long gone. It would not take most employers considerable time to calculate to the penny what an employee was owed if he or she worked 8 hours and 3 minutes, or 7 hours and 57 minutes. No, for most employers, that's something that can now be computed in split seconds without a bookkeeper manually punching numbers into a machine. Or it's something that's outsourced to a payroll processing vendor.

The use of computerized time and payroll systems has made the process of calculating employee compensation infinitely easier than it once was. Generally speaking, it is easy to compute and pay each non-exempt employee to the minute, if that is what the employer wants to do.

Not incidentally, those same computerized time and payroll systems make it easier to determine if an employer's time-rounding policy, in fact, results in everything "coming out in the wash." That is, while it might take some time and effort to run the numbers, an employer's electronic records can be reviewed to determine if its time-rounding policies, in fact, result in a "wash" — or if they benefit the employer or the employees over some period of time.

If the policy benefits the employer, that can be problematic. Very problematic. In California, for instance, the courts continue to acknowledge that time-rounding policies can be lawful. But those same courts have held that not only must the time-rounding policies be neutral on their face — rounding time both up and down in an even-handed manner — but they must also be neutral *in practice*. In other words, if an employer's time-rounding policy results in employees being shortchanged with some amount of statistically significant frequency, the employer can be on the hook for underpaying its employees. And, of course, for penalties and attorney's fees.

Not surprisingly, the issue of whether an employer's time-rounding policy results in systematic underpayment to employees comes up often in the context of wage-hour class actions, where it is not unusual for a single plaintiff to seek to represent all of an employer's employees on a claim that they have been underpaid.

Given the desire to avoid a class action and the ease with which time and compensation can be computed without time-rounding, it would be wise for employers to consider whether they wish to continue to employ time-rounding.

If you don't have a good answer to explain why you are using a time-rounding policy, it might be time to dispose of it and to pay your employees to the minute.

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