



BALCH & BINGHAM LLP

Alabama • Georgia • Mississippi • Washington, D.C.

LABOR AND EMPLOYMENT BULLETIN

February 17, 2005

DOL SAYS THAT PARTIAL-DAY LEAVE BANK DEDUCTIONS ARE ALLOWED UNDER THE FAIR LABOR STANDARDS ACT

Currently, under the Fair Labor Standards Act, employers are not allowed to take a partial-day deduction from an employee's salary if that employee is an exempt employee under the Act. Rather, employers can only take full-day deductions under certain situations, and only where the employee is actually absent for a full day. In an opinion letter dated January 7, 2005, the Wage and Hour Division of the Department of Labor stated that an employer may take a partial-day deduction from an exempt, salaried employee's accrued paid time-off bank, as long as the deduction occurs as part of a bona fide benefit plan.

In deciding to allow partial-day deductions from exempt employees' paid time-off bank, the Division reasoned that employees would still receive their full guaranteed salary, because only accrued paid leave is affected. The Division reaffirmed that an employer cannot reduce an employee's actual salary in increments of less than one day, even if that employee has a zero or negative time-off balance.

This opinion letter provides more flexibility for employers that want to account for partial-day absences by their employees. The rules regarding exempt employees and the salary basis test remain complex, however, and employers should seek advice prior to adopting any changes to their policies affecting exempt employees.



SAVE THE DATE
Balch & Bingham's 2005 Labor and
Employment Seminars will be held in:
Birmingham, AL: September 29-30
Biloxi, MS: October 13-14

L A B O R A N D E M P L O Y M E N T C O N T A C T S

BIRMINGHAM, AL

Leslie M. Allen
205.226.3484
lallen@balch.com

David R. Boyd
205.226.3485
334.269.3132
dboyd@balch.com

Douglas B. Kauffman
205.226.8758
dkauffman@balch.com

N. DeWayne Pope
205.226.3421
dpope@balch.com

Lisa J. Sharp
205.226.8714
lsharp@balch.com

M. Jefferson Starling, III
205.226.3406
jstarling@balch.com

HUNTSVILLE, AL

David B. Block
256.512.0105
dblock@balch.com

JACKSON, MS

R. Pepper Crutcher, Jr.
601.965.8158
rcrutcher@balch.com

Armin J. Moeller, Jr.
601.965.8156
amoeller@balch.com

David M. Thomas, II
601.965.8157
dthomas@balch.com

E. Russell Turner
601.965.8159
rturner@balch.com

ATLANTA, GA

Cary Ichter
404.760.3502
cichter@balch.com

T. Joshua R. Archer
404.760.3556
jarcher@balch.com

MONTGOMERY, AL

W. Pete Cobb, II
334.269.3128
pcobb@balch.com

Charles B. Paterson
334.269.3143
cpateroso@balch.com

Dorman Walker
334.269.3138
dwalker@balch.com

The Labor & Employment Bulletin is published as an informational resource for clients and friends of Balch & Bingham, LLP. It is not a solicitation to perform legal services. No representation is made that the quality of legal services performed by Balch & Bingham LLP is greater than the quality of legal services performed by other lawyers.

