

Apartment Managers: Wage and Hour Laws (Tear Out Summary - January 2005)

1. General Rules:

- A. Minimum wage compensation for a manager is \$6.75 per hour for each hour worked.
- B. Overtime: Overtime of 1 ½ times hourly rate (\$10.13) must be paid if more than 8 hours per day, 40 hours per week, or 6 consecutive days.
- C. If the Manager is not required to live at the property of an under 16 unit building, but the Manager chooses to live there, then any rent may be charged.
- D. If the Manager is required to live at the property, regardless to the number of units, the rent paid by the Manager may not exceed the monthly sum of \$381.20 for a single manager, or \$563.90 for a couple.
- E. If no rent is charged, the manager's wages may be offset by no more than \$381.20 (1 manager) or \$563.90 (couple) per month.

2. Qualifications to General Rules:

A. **Under 16 Units:** If less than 16 units and the manager is not required to live at the property, then manager can be charged any rent, even if greater than \$381.20 or \$563.90. But full hourly minimum wage must be paid to manager without offset if full rent is charged. Dollar-for-dollar wage reduction not exceeding \$381.20 or \$563.90 if partial rent reduction (or 2/3rds the unit's value).

B. 16 Units Or More:

Exception No. 1: "Offset of Wages": Manager's wages may be reduced by the lesser of (1) 2/3rds the unit's rental value, or (2) \$381.20 per month (1 manager) or \$563.90 per month (couple) if no rent is paid. Dollar-for-dollar wages reduction if only a partial rent reduction. Manager's wages may not be offset by more than \$381.20 or \$563.90 even though the apartment might be worth a lot more.

Exception No. 2: "Check Exchange": Manager may pay up to 2/3rds the value of the unit as rent (without regard to \$381.20 and \$563.90 limitations) provided that separate checks are exchanged for the Owner's payment of wages and the Manager's payment of rent. Thus, the Owner must pay Manager the full minimum wage (\$6.75 for all hours worked) and the Manager must pay Owner an amount not exceeding 2/3rds the rental value by a separate check.

C. **"\$2,339 Manager":** The exemption from wage laws for highly compensated managers earning \$2,339 per month is generally inapplicable. It is best not to rely on this exemption.

3. Recommendations:

- A. **Sign a contract:** No offsets to the minimum wage are allowed unless Manager signs a contract with Owner providing for such offsets!
- B. **Management Certification:** Require Manager to record all hours worked, initial and deliver such report to Owner.
- C. **Posting:** Post Manager's name and address in conspicuous place at the building.
- D. **Record Keeping:** Keep accurate records of all matters concerning hiring, working and firing of Managers.

NOTE: As used herein, Owner includes a management company employer.