

## FREQUENTLY ASKED QUESTIONS

**Why do I have to pay time and a half for all hours worked over forty in a workweek to my workers who cultivate, trim, or harvest Christmas trees, but I do not have to pay overtime to my workers who pick berries?**

Under wage and hour laws, the cultivation and harvesting of Christmas trees, unlike berry production, is not considered “agriculture” despite the fact that Oregon law requires a farm labor contractor’s license in order to recruit, solicit, supply, or employ workers to perform labor for another in the cultivation and harvesting of Christmas trees. Therefore, workers who handle Christmas trees must receive time and a half their regular hourly rate for all hours worked over forty in a workweek.

**Do I have to pay overtime to my workers who harvest wild forest products like evergreen boughs, salal, bear grass, yew bark, and ferns?**

Yes. Since the mere harvesting of wild forest products is not considered “agriculture” the workers who are employed to collect these forest products are entitled to overtime for all hours worked over forty in a workweek. Note: Workers harvesting other wild forest products such as mushrooms or moss, which are not regulated by Oregon’s farm/forest contractor laws, must also receive overtime for all hours worked over forty in a workweek.

**I pay my workers a piece-rate. Sometimes family members request to work together on one “ticket.” Is that all right?**

No. Wage and hour laws require that you keep accurate records of hours worked and wages earned by *each* employee. In addition, the employer must furnish *each* employee each time an employee is paid an itemized statement that must include a statement of earnings and deductions for that particular employee. Note: If you permit an employee’s relative or friend to assist your employee in the workplace, then under wage and hour law, you have “suffered or permitted” that person to work and that person will also be considered your employee even though you may believe you did not “hire” the extra help.

**Sometimes I pay my workers by the number of boxes they fill and sometimes I pay them by the pound. Do I still have to keep track of the hours that they work?**

Yes. Unless the employee is exempt from minimum wage (see page 33), wage and hour law requires that you keep a record of the hours worked each day by each employee. Recording the hours worked by each employee daily is required regardless of the method used to compute the wages actually earned pursuant to the agreed rate of pay. An employer should always check to make sure that the hours the employee actually works reflect earnings at least equal to the minimum hourly wage regardless of the method used to compute wages earned by the employee pursuant to the agreed rate. If an employee’s earnings do not equal or exceed what they would have earned for all hours worked multiplied by the applicable minimum wage, the employer must pay the difference between these amounts.