



## Piece Rate Pay

### **What is Piece Rate?**

"Piece rate" pay is a definition for employees paid a fixed amount of money based on an agreed-upon piece of work, task, service, or making a product. Piece rate pay is typically seen in the automotive servicing industry where an employee is paid the standard "book rate" or "flag rate" for a job, no matter how many hours it takes to perform the job. For example, if performing an oil service on a truck has a book rate of two hours, the employee is paid the equivalent of two hours of work no matter how long the job actually takes.

A minimum wage must be paid for all hours worked during a payroll period. Thus, if work is slow and there are few piece rate jobs to perform, at a minimum the employee must be paid at least minimum wage for all hours worked. In addition to paying for rest and recovery periods, employees must be paid for *non-productive time*. *Non-productive time* may include time spent waiting for work, conducting pre-work inspections, or attending meetings. If you already pay your employees, in addition to their piece rate wages, an hourly rate at or above the applicable minimum wage for all hours worked, you would be considered in compliance with Labor Code Section 226.2.

Employers sometimes call piece rate "commissions". However, it is important to remember that commissions are only earned from sales work, and "commission" that is paid for actually performing the work will be seen as a piece rate. In addition, many commissioned salespeople are still entitled to overtime.

**NOTE:** Effective January 1, 2022, [SB 62](#) eliminated piece rate pay as a legal method of payment for non-unionized workers in garment manufacturing. SB 62 imposes statutory damages of \$200 per employee per pay period in which an employee is paid by piece rate. Consult counsel if you believe your workers may fall under the garment manufacturing industry.

### **Do I have to pay overtime?**

Yes, employees who paid on a piece rate are entitled to overtime when they work more than 8 hours in a day or more than 40 hours in a week. Because an employee is entitled to overtime whenever they work more than 8 hours in the day or 40 hours in the week, it is important to keep track of the employees' hours worked (both employer and employee). Overtime is computed based on actual hours worked.

### **How Do I Calculate Pay for Rest and Recovery Time and "Other Nonproductive Time"?**

1. Employees must be paid for rest and recovery periods at a regular hourly rate that is no less than the higher of either the applicable minimum wage or an "average hourly rate." The "average hourly rate" is calculated as follows:

*Example: Total Piece Rate compensation = \$1,000; employee worked 50 hours. Average hourly rate is \$20. Use this rate to pay rest and recovery period time.*

2. Employees must be paid for all “other nonproductive time” at an hourly rate that is no less than the applicable minimum wage. Employers may determine non-productive time either through actual records or through “reasonable estimates”. Recommendation is to keep documentation of actual non-productive time.

## **Computing Overtime for Piece Rate Work**

### ***Method One – Overtime for each piece produced:***

Piece Rate Pay: \$10.00 for each book made. OT Rate: \$10.50 per book for books made after working 8 hours in a day or 40 hours in a week.

*Example: Joe worked 46 hours this week. 3 books were made during overtime. 100 books x \$10.00 = \$1,000. 3 books x \$10.50 = \$31.50. Total earned for week: \$1,031.50.*

**Challenge:** This method requires the employer to track when each piece is produced. In addition, if pieces take a long time to produce, it can mean that the overtime rate is paid for the entire piece, even though only a portion was worked in overtime hours.

### ***Method Two – Regular Rate of Pay and Overtime:***

Regular Rate of Pay = Total Compensation for Week ÷ Total Number of Hours Worked for Week

Overtime = Regular Rate of Pay x 1.5 (hours worked from 8 to 12 hours a day); Regular Rate of Pay x 2.0 (hours worked over 12 hours a day)

*Example: Joe worked 46 hours this week. Joe earned \$1,000 in piece rate work.  $\$1,000 \div 46 \text{ hours} = \$21.73$ ;  $\$21.73 \times .5 = 10.87/\text{hr}$ . 6 hours x 10.87 = \$65.22. Total Earnings: 1,065.22.*

### ***Method Three – Group Rate:***

Regular Rate of Pay = Total Number of Pieces produced by Group ÷ Number of Employees in Group, then multiply hours worked for each individual employee

*Example: 500 pieces ÷ 5 employees = \$100; Joe worked 40 hours for a pay rate of \$400. (This pay rate is below minimum wage and would need to be adjusted to meet minimum wage.)*

**NOTE:** Piece rate workers are entitled to minimum wage. There are also numerous city and county [minimum wage rates](#) throughout California which are higher than the state minimum wage. The employer must verify each pay period that their employees earned at least minimum wage from all piece rate work, and pay the difference if they did not. All regular breaks and meal period rules for California would also apply.

## **Accurate Wage Statements**

Paying by the hour is often a much simpler way to pay employees. Many employers violate the Labor Laws by not paying overtime to piece rate workers. However, even when overtime is paid to the employee, frequent violations occur because the employer fails to print the required information on each employee's wage statement.

California law requires certain information is included on every wage statement so the employee can easily verify the wages were paid correctly for the pay period. In the case of piece rate workers, the employer must also include the following:

- The total hours of compensable rest and recovery periods, the rate of compensation for those periods and the gross wages paid; and
- The total hours of non-productive time, the rate of compensation for non-productive time, and the gross wages paid for such time.

If you pay your employees a base hourly rate for all hours worked, you are not required to specify the total hours of non-productive time on the wage statement.

Penalties: Not providing this information allows your employees to pursue a claim for damages and/or penalties of up to \$100 for each pay period in which this information was not provided.

For an example of a pay stub see: <http://www.dir.ca.gov/dlse/PayStubForPieceRate.pdf>