

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT*Headquarters Office*45 Fremont Street, Suite 3250
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State Labor Commissioner***NANCE STEFFEN
DIR/DLSE
SAN FRANCISCO/HQ**

August 12, 1998

Betty Hung
Staff Attorney
Asian Pacific Legal Center of Southern California
1010 South Flower Street, Suite 302
Los Angeles, CA 90015-1428

Re: Calculation of Piece Rate

Dear Ms. Hung,

I have reviewed your letter dated August 7, 1998. Thank you for bringing to my attention that there might be a misunderstanding as to how piece rate is to be calculated by our Division, in relation to the responsibility of an employer to pay minimum wage for all hours worked by employees.

As you may know, an employer's obligation to pay the applicable minimum wage to his or her employees for all hours worked arises at the conclusion of the pay period. This is made somewhat more difficult to calculate when it comes to employees who are paid a variety of piece rates during the applicable pay period, nevertheless, it is an obligation that the employer must meet.

Historically, the Division of Labor Standards and Enforcement's policy on calculation of piece rate is that piece rate earnings can only be credited during the pay period in which they have been earned. Amounts earned on piece rate earnings in excess of minimum wage in one pay period cannot be credited against those pay periods during which piece rate wages fall below the applicable minimum wage. Each pay period must stand alone to insure that the employee receives the minimum wage for all hours worked.

Please be advised that this letter will be distributed to all Division staff to clarify any confusion in the calculation of piece rate in the future.

Sincerely Yours,


Jose Millan
State Labor Commissionercc: Miles Locker, Acting Chief Counsel
Assistant Chiefs