



Record Keeping Requirements

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Record Keeping Requirements

Reference Number: MTAS-960

“Employers who are subject to the FLSA must keep records for both exempt and nonexempt employees.” 29 U.S.C. § 211(c) and 29 C.F.R. § 516.1(a). There are no civil penalties for employers who fail to keep accurate work records. However, the failure to keep accurate records can expose the employer to FLSA lawsuits brought by employees seeking back wages or overtime. An employee may sue an employer in federal or state court for violating the act.

The regulations do not prescribe a particular order or format in which records should be maintained. “Records may be maintained on paper, microfilm, or an automatic data processing system, provided viewing equipment is accessible and reproductions are identifiable.” 29 C.F.R. § 516.1(a). Additionally, employers may use “any timekeeping method they choose” for keeping track of employees’ hours worked as long as the method is “complete and accurate.”

Records for Non-Exempt Employees

Reference Number: MTAS-2099

Record Keeping for Non-Exempt Employees

“Employers covered by the act must keep records for a certain amount of time on wages, hours, sex, and other terms and practices of employment.” 29 U.S.C. § 211(c). Items to be maintained for employees subject to the minimum wage or minimum wage and overtime provisions (29 C.F.R. § 516.2(a)) include:

1. Name in full and employee’s identifying symbol or number;
2. Home address, including ZIP code;
3. Date of birth if under age 19;
4. Sex and occupation;
5. Time of day and day of week on which the employee’s workweek begins; for 207(k) employees, the starting time and length of each employee’s work period;
6. Regular hourly rate of pay for any workweek in which overtime compensation is due, the basis for the regular rate, and any exclusions there from, must also be explained;
7. Hours worked each workday and total hours worked each workweek;
8. Total daily or weekly straight-time earnings or wages due for hours worked during the work day or workweek;
9. Total premium pay for overtime hours; total additions to or deductions from wages paid each pay period; total wages paid each pay period; and
10. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions.
11. Total wages paid each pay period.
12. Date of payment and the pay period covered by the payment.

Employers with comp time arrangements must maintain and preserve records of the number of hours of comp time earned each workweek or applicable work period (the hours must be calculated at a rate of one and a half hours for each overtime hour worked); the number of hours of compensatory time used each work week or applicable work period; the number of hours of comp time paid in cash (the total amount paid and the date of payment should be included); and any written understanding or agreement with respect to earnings and using compensatory time off. If no such written agreement exists, a record of its existence must be kept. For 207(k) employees, the employer must also make a notation on payroll records indicating the work period for each employee. The notation should show the length of the work period and its starting time. 29 C.F.R. § 553.50.

Records for Exempt Employees

Reference Number: MTAS-2100

Record Keeping for Exempt Employees

Special records of employers are required where exempt employees are concerned. 29 C.F.R. § 516.3. Almost identical records must be maintained for these bona fide exempt executive, administrative, or professional employees as for those employees subject of the minimum wage and overtime provisions with the exception of items 6 - 10 above [1].

In addition to full-name, home address, date of birth, sex and occupation, time of day and day of week workweek begins, total wages paid and date of payment and pay period covered by the payment, the employer must keep records reflecting the basis on which exempt employees are paid. These records must be sufficiently detailed to allow the calculation for each pay period of the employee's total compensation. 29 C.F.R. § 516.3.

Compensatory Time Records

Reference Number: MTAS-2101

In addition to the general record-keeping requirements, special procedures must be followed for government employees subject to the compensatory time provisions of the act. Employers with comp time arrangements must maintain and preserve records of:

1. The number of hours of compensatory time earned each workweek, or other applicable work period. The hours must be calculated at a rate of one and a half hours for each overtime hour worked. 29 C.F.R. § 553.50(a);
2. The number of hours of compensatory time used by the employee each workweek or other applicable period. 29 C.F.R. § 553.50(b);
3. The number of hours of compensatory time paid in cash, the total amount paid and the date of payment. 29 C.F.R. § 553.50(c); and
4. Any collective bargaining agreement or written understanding or agreement about earning and using compensatory time off. 29 C.F.R. § 553.50(d).

FLSA Record Retention

Reference Number: MTAS-2102

The act requires employers "to preserve, for at least three years, payroll records; certificates, agreements, plans, and notices (all written) including collective bargaining agreements and individual contracts; and sales and purchase records." 29 C.F.R. § 516.5(b). The act also requires employers "to preserve, for at least two years, basic employment and earnings records; wage rate tables; order, shipping and billing records; and records of additions to or deductions from wages paid." 29 C.F.R. § 516.6(a).

The regulations require each employer "to keep the required records in a safe and accessible location at the place or places of employment available for inspection." 29 C.F.R. § 516.7(a). Additionally, "every employer employing workers subject to the FLSA must post, and keep posted, a notice explaining the requirements of the FLSA." 29 C.F.R. § 516.4. The notice must be posted in a conspicuous place in every establishment where such employees work.

MTAS has created a personnel records retention schedule [2] for some common documents. For additional information, see the Records Retention [3] section of MORE.

Other Records Requirements

Reference Number:

MTAS-2127

Employers are required to maintain additional records for several miscellaneous exemptions. Among the records are:

- Employees under certain collective bargaining agreements who are partially exempt from over-time pay requirements as provided in section 7(b)(1) or 7(c)(2). 29 C.F.R. § 516.20.
- Employees employed under Section 7(f) "Belo" contracts. 29 C.F.R. § 516.24.
- Board, lodging or other facilities under section 3(m). 29 C.F.R. ;§ 516.27.
- Learners, apprentices, messengers, students, or handicapped workers employed under special certificates as provided in section 14. 29 C.F.R. § 516.30.

Links:

[1] <https://www.mtas.tennessee.edu/reference/records-non-exempt-employees>

[2] <https://www.mtas.tennessee.edu/reference/Personnel>

[3] <https://www.mtas.tennessee.edu/reference/retention-schedules>

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