

The manager had a lot to think about. What did he definitely do right? He had the good sense and respected his employees enough to check with many workers about their preferences. He found that a substantial minority, apparently including the more senior informal leadership, wanted to stay with the steady hourly pay. He also realized, however, that going to piece rate would satisfy the majority, keep costs in control (perhaps even reduce them), and keep his business in step with other firms in his area. Weighing against the change were the risks of dividing the workforce, creating downtime and necessitating layoffs for the workers after they finished pruning the fixed acreage at a faster rate, and putting more pressure on himself to supervise for quality.

Legal Requirements and Constraints

Federal and state laws regulate the timing and form of wage payment, impose record-keeping obligations on employers, and assess taxes on employee earnings. While employers are responsible for remitting all payroll taxes to government agencies, not all such payments are at the direct expense of the employer. Funds for some benefit programs (e.g., disability insurance) are withheld and paid from employees' gross earnings.

Provisions for a minimum wage, overtime compensation premiums, and reporting time pay are in statutes and regulations. Workers are entitled to the higher of the federal minimum wage or any minimum specified by state or local law, see *AgHelpWanted.org* for more details. Agricultural employees can be paid on a piecework basis as long as the gross earnings for each person are no lower than what would have been earned hourly at the applicable minimum wage.

Provisions for overtime in the federal Fair Labor Standards Act (FLSA) generally do not apply to farm workers, but individual states have their own requirements. In California, for example, "nonexempt" employees are entitled to overtime premium pay for every hour after 10 in a workday or 60 in a workweek. Though applicability of state overtime laws varies, the federal definition of criteria for FLSA exempt status is a good guideline for determining also who is exempt from state overtime obligations. An exempt supervisor, for example, must meet five criteria: (1) primary duty must be management of the company or a department, (2) must supervise at least two full-time employees, (3) must have the authority to hire and fire, (4) must regularly exercise discretionary powers, and (5) must spend at least half of work time in supervisory functions (Title 29, Code of Federal Regulations, Part 541.1).

Employers covered by the FLSA and federally registered farm labor contractors are required to preserve wage records for three years. Records must include (1) basis for wages paid, (2) piecework units earned, if any, (3) total hours worked, (4) total pay period earnings, (5) all deductions and their purpose, and (6) net pay. Farmers, farm labor contractors (FLCs), and other organizations that employ



migrant or seasonal workers are required to give each worker a written, itemized statement containing this information, plus the employer's federal tax identification number, with every paycheck. The U.S. Department of Labor offers sample forms in English and Spanish. When a piece rate or other incentive plan is used in computing pay, the rate schedule or an explanation of the incentive plan formula also must be provided to employees.

Most states specify similar recordkeeping and reporting to workers. Farmers and ranchers who use farm labor contractors are required to obtain and to preserve for three years (or four years in some states) copies of the FLC payroll records.

Employers are generally liable for withholding three federal payroll taxes: (1) Federal Income Tax, (2) Social Security (Federal Insurance Contributions, FICA), and (3) Federal Unemployment Tax (FUTA). A farmer who fails to withhold income tax or FICA contributions from the employee's paycheck may become personally liable for the amounts due. Employers must not only be familiar with these obligations but also stay abreast of specific changes in tax policies, procedures, and rates. Basic publications issued annually by government agencies are important sources of current information and reporting forms. (See Chapter 2 and *AgHelpWanted.org* for links to online references.)

The following publications are from the Internal Revenue Service (IRS):

Federal Employment Tax Forms (Publication 393)

Farmer's Tax Guide (Publication 225)

Circular A: Agricultural Employer's Tax Guide (Publication 51)

Circular E: Employer's Tax Guide (Publication 15)

Links to corresponding state publications are at *AgHelpWanted.org*.