
29 C.F.R. § 778.501

The “split-day” plan.

(a) Another device designed to evade the overtime requirements of the Act was a plan known as the “Poxon” or “split-day” plan. Under this plan the normal or regular workday is artificially divided into two portions one of which is arbitrarily labeled the “straight time” portion of the day and the other the “overtime” portion. Under such a plan, an employee who would ordinarily command an hourly rate of pay well in excess of the minimum for his work is assigned a low hourly rate (often the minimum) for the first hour (or the first 2 or 4 hours) of each day. This rate is designated as the regular rate: “time and one-half” based on such rate is paid for each additional hour worked during the workday. Thus, for example, an employee is arbitrarily assigned an hourly rate of \$5 per hour under a contract which provides for the payment of so-called “overtime” for all hours in excess of 4 per day. Thus, for the normal or regular 8-hour day the employee would receive \$20 for the first 4 hours and \$30 for the remaining 4 hours; and a total of \$50 for 8 hours. (This is exactly what he would receive at the straight time rate of \$6.25 per hour.) On the sixth 8-hour day the employee likewise receives \$50 and the employer claims to owe no additional overtime pay under the statute since he has already compensated the employee at “overtime” rates for 20 hours of the workweek.

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