

PAYROLL COMPLIANCE CHECKUP

5 Critical Areas to Address Before the Upcoming Season

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HOT TOPICS IN AG LABOR

How to protect yourself from PAGA lawsuits

- Arbitration Agreements
- Wage & Hour Audits conducted by legal counsel
- Documentation: Have good training records, documentation of communications with employees (warnings, complaints)
- No one has perfect time (red flag if there has never been paid overtime, missed meals, etc)

We recommend attending the Ag Labor Forums held by:

calfca.org
agpersonnel.org

DISCLAIMER: This presentation is for informational purposes only and does not constitute legal advice.

COMPLIANCE REVIEW

Uncollected/Unpaid Time

Employee Miscategorization

Accurately Paying Overtime

Making Wage Corrections (Retropay)

Accurately Accruing & Paying Sick Time

UNCOLLECTED/UNPAID TIME

What is Happening in the Field?

- Is time recorded on time sheets accurate?
- If you are using data collections, are you using tools to clock all employees in/out at the same time (earliest in/latest out)?
- Are there any tasks employees are performing that would be considered on de minimis time that should be added to their hours?

UNCOLLECTED/UNPAID TIME

What is Happening in the Field?

- Are supervisors trained on how to report missed meals, overtime and other time that might need to be adjusted for individuals?
- Are you paying non-productive time when employees are paid piece rate?
- Are you paying Rest Breaks when there are production based "bonuses"?



UNCOLLECTED/UNPAID TIME

Using Excel Templates to Create Your Own Time Sheets



Request sample templates from Datatech Support Staff.



Find additional information that can be exported by searching *crew sheets* in Datatech Help.



At a minimum, you need to create a crew. Then you can add employees assigned or print blank sheets.

* For sample templates, go to [https:// help.datatechag.com/winfarm/Content/Payroll/Crews/Crew_Sheets_Using_an_Excel.htm](https://help.datatechag.com/winfarm/Content/Payroll/Crews/Crew_Sheets_Using_an_Excel.htm)

New Non-Productive Time Feature

For customers manually entering time, you can now enter non-productive time along with your piecework through the Crew Sheet Entry Wizard

Crew Sheet Wizard

Default Hours

Now enter the default number of hours worked:

Regular Hours:

Non-Prod Hours 1:	<input type="text" value="0.1500"/>	<input type="text" value="NP / EX"/>
Non Prod Hours 2:	<input type="text" value="0.1500"/>	<input type="text" value="NP / TRAVEL"/>
Non Prod Pay Rate:	<input type="text" value="16.90"/>	

of Pieces:

of Pieces #2:

Break Time:

Advance:

< Back Next > Close

EMPLOYEE MISCATEGORIZATION

- Do your employees who are categorized as *Exempt* meet the qualifications?
 - ✓ **Duties Test**
 - ✓ **Minimum Salary**
 - ✓ **Wages are paid in line with definition of Salary**

If you're paying a non-exempt salary, are you accurately tracking hours and paying overtime premium?

EMPLOYEE MISCATORIZATION

Are your supervisors REALLY exempt ?

✓ **Primary Duty = Management**

They must primarily manage a recognized unit (crew, ranch, block, etc.)

Qualifying duties include:

- Supervising crews
- Assigning work
- Scheduling
- Handling discipline
- Overseeing productivity

✓ **Supervises 2+ Employees**

Must regularly direct at least 2 full-time employees (or equivalent)

✓ **Authority Over Employment Decisions**

Has authority to **hire/fire**, OR their recommendations are given "**particular weight**"

Time spent performing exempt duties >
50% of hours worked each week

EMPLOYEE MISCATTEGORIZATION

Minimum Salary for Exemption



Must be 2 x Minimum Wage

California 2026:

$\$16.90 \times 2 \times 40 \text{ hours} \times 52 \text{ weeks} = \mathbf{\$70,304}$

EMPLOYEE MISCATORIZATION

Real Life Story

- The Supreme Court case of *Helix Entry Solutions, Inc v. Hewitt* found that a highly paid employee was *not exempt* for the overtime requirements of the FLSA because the worker was paid a day rate and not a guaranteed weekly salary.
- Hewitt earned \$963 typically for 12 to 14 hours and earned an annual income of more than \$200,000



ACCURATELY PAYING OVERTIME

Common Issues We See:

- Not using RROP when paying multiple pay rates
- Not paying overtime on day rates
- Not paying the correct rate on non-exempt salary
- Not paying overtime on bonus wages

ACCURATELY PAYING OVERTIME

Multiple Pay Rates

- ✓ Employee must be paid one and one-half times the Regular Rate of Pay (RROP) for overtime hours
- ✓ The RROP is calculated by dividing the total pay for employment (except for the statutory exclusions) in any workweek by the total number of hours actually worked

When there is more than 1 pay rate, the RROP method *must* be used.
THIS IS A FEDERAL RULE.

ACCURATELY PAYING OVERTIME

Multiple Pay Rates Comparison

Paid at Rate While Working Overtime:

4 Hours @ 18.00	\$72.00
4 Hours @ 17.00	\$68.00
1 OT @ 17.00 X 1 ½	\$25.50
Total	\$165.50

Paid at RROP:

4 Hours @ 18.00	\$72.00
5 Hours @ 17.00	\$85.00
1 OP @ 8.72	\$8.72
Total	\$165.72

In this example, if the employee had worked the \$18/hr job in overtime, then the pay with the OT method would be higher than the OP.

Using a weighted average gives a fair method to calculating overtime compensation so neither the employee or employer can "game the system."

ACCURATELY PAYING OVERTIME

Daily Rates

Salary wages must be a guaranteed amount per week. Therefore, by definition, Day Rates are *not* salary.

- Use a separate Wage Type to pay Daily Rates. Wage Type Should be set to the Piecework Base Pay Type
- Enter Hours in PW Hours, just as you would Piecework & Apply Overtime Premium when Creating Checks.

Payroll Wage Types

Code: DR ... Base Pay Type: Piecework Active

Description: DAY RATE

Check Stub:

Check Stub Description: Daily Rate Spanish: Tarifa Diaria

Summary Description: Diaria Summary Spanish Description: Diaria

Summarize To: <> Combine Lines with Different Rates on Summary

H-2A Hours Offered/Not Worked

Acct #/Employee Name	Reg Wages	Excess Overtime	Check Total
115 MARTINEZ JUAN	250.00	13.89	263.89
Day G/L # Job ID Crop Grow Type PW Hr Units Rate Total			
16 601.00 SUP VINE 14 DR 9.0000 1.0000 250.0000 250.00			
16 601.00 SUP VINE 14 OP 0.0000 1.0000 13.8900 13.89			
Days Worked: 1 Totals:	9.00	1.0000 Pieces	263.89

ACCURATELY PAYING OVERTIME

Non-Exempt Salary

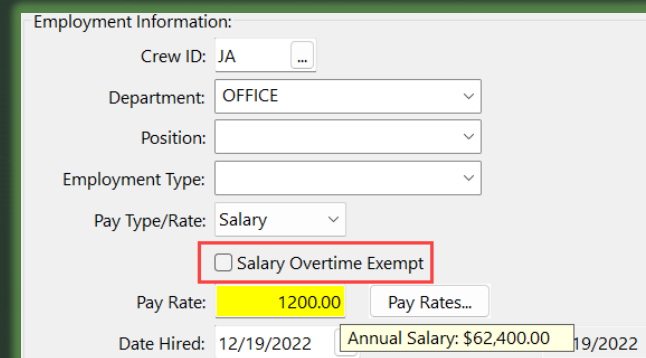
Wages may still be paid to employees as salary that don't meet exemption status. In this case you would pay any overtime wages based on the 1 ½ times the RROP, based on regular hours/salary amount.

Example:

Employee is paid \$1,200 per work-week based on 40 regular hours

- $1,200 / 40 = \$30$ (RROP)
- $\$30 \times 1 \frac{1}{2} = \45 (OP Rate)

Employee should *not* have the Salary Overtime Exempt Selected on their Profile



The screenshot shows an 'Employment Information' form with the following fields and values:

- Crew ID: JA
- Department: OFFICE
- Position: (empty)
- Employment Type: (empty)
- Pay Type/Rate: Salary
- Salary Overtime Exempt (highlighted with a red box)
- Pay Rate: 1200.00
- Pay Rates... (button)
- Date Hired: 12/19/2022
- Annual Salary: \$62,400.00

ACCURATELY PAYING OVERTIME

Non-Exempt Salary

There are various methods to enter/pay Salary:

Employee Profile: After entering hours in Daily Payroll, the Batch Report will pick up the Salary entry. In this method, the hours are entered with \$0 rate.

Data Collection Import: If importing hours from data collection exports, rates get applied to the hours. Therefore, an offset is needed so that wages are not duplicated. This can be defined in your import configuration

Manual Entry: Salary can be entered manually in Daily Payroll or Check Entry. If you use the Check Entry method, you must manually add any overtime.

ACCURATELY PAYING OVERTIME

Example of hourly entry result

Acct #/Employee Name				Reg Wages		Excess Overtime	Check Total		
110 GONZALES MARIA				1,200.00		225.00	1,425.00		
Day	G/L #	Job ID	Crop	Grow	Type	PW Hr	Units	Rate	Total
	601.00	SUP	DT	0	SA	0.0000	1.0000	1,200.0000	1,200.00
16	601.00	SUP	VINE	14	RH	0.0000	9.0000	0.0000	0.00
17	601.00	SUP	VINE	14	RH	0.0000	9.0000	0.0000	0.00
18	601.00	SUP	VINE	14	RH	0.0000	9.0000	0.0000	0.00
19	601.00	SUP	VINE	14	RH	0.0000	9.0000	0.0000	0.00
20	601.00	SUP	VINE	14	RH	0.0000	9.0000	0.0000	0.00
16	601.00	SUP	VINE	14	OP	0.0000	1.0000	45.0000	45.00
17	601.00	SUP	VINE	14	OP	0.0000	1.0000	45.0000	45.00
18	601.00	SUP	VINE	14	OP	0.0000	1.0000	45.0000	45.00
19	601.00	SUP	VINE	14	OP	0.0000	1.0000	45.0000	45.00
20	601.00	SUP	VINE	14	OP	0.0000	1.0000	45.0000	45.00
Days Worked: 5				Totals:		0.00	45.0000 Hrs		1,425.00
							1.0000 Pieces		

ACCURATELY PAYING OVERTIME

Bonuses



Bonuses for any production period (weekly/seasonal) are subject to overtime compensation.



Flat Rate bonuses are calculated at 1 ½ the RROP for any overtime hours in the period.



Production-based bonuses are calculated using the ½ RROP.



For complete details on set up and entry instructions, search **Bonus Overtime** in our Online Help.

* For more information on this topic, go to https://help.datatechag.com/winfarm/Content/Payroll/Setup/Overtime_Rules/Bonus_Overtime_Double_Time.htm?Highlight=bonus%20overtime

MAKING CORRECTIONS/RETRO PAY

Can You Spot the Problems? (Hint: There are 4 issues)

Day	Pay Type	Field	Job	Hrs	Units	Rate	Total		This Check	Yr to Date
02/06/2024	ADJ HR R		SUPERVISING	21.5000		0.75	16.13			
02/06/2024	Rest & Re		SUPERVISING	1.0000		1.65	1.65	Gross Wages	456.49	6,108.74
02/06/2024	ADJ HR R		SUPERVISING	234.0000		0.50	117.00	Fed Wht	0.00	0.00
02/07/2024	Rest & Re		SUPERVISING	0.2500		1.65	0.41	Social Sec.	28.30	378.74
02/07/2024	Reg. Hrs		SUPERVISING	4.7500		23.00	109.25	Medicare	6.62	88.58
02/09/2024	Rest & Re		SUPERVISING	0.5000		1.65	0.83	State Wht	0.00	34.58
02/09/2024	OT Prem.		SUPERVISING	0.0000	1.0000	11.47	11.47	SDI	5.03	67.20
02/09/2024	Reg. Hrs		SUPERVISING	8.5000		23.50	199.75	Net Check	416.54	5,539.64

Totals by Pay Type:	Pay Type	Hrs	Units	Rate	Total
	ADJ HR R	234.0000		0.50	117.00
	ADJ HR R	21.5000		0.75	16.13
	OT Prem.		1.0000	11.47	11.47
	Reg. Hrs	4.7500		23.00	109.25
	Reg. Hrs	8.5000		23.50	199.75
	Rest & Re	1.7500		1.65	2.89

Totals: 270.5000 1.0000 456.49

Sick Hrs Accrued: 50.92 Sick Hrs Available: 16 Sick Hrs Paid: 24 Paid YTD: \$552.00 Deduction Settings: State: M/2 Federal: M/1/4000,0,0,0

MAKING CORECTIONS/RETRO PAY

The entries needing correction (21.50 hours @ .75 and 234 hours @ .50) are entered with a date within the current period; this most likely is an accumulated hour total over multiple pay periods.

The Wage Correction Wage Type is set to Regular Hours and was included in the weeks' Regular Rate of Pay calculations. This resulted in the following issues:

- The Rest & Recovery and Overtime Premium Rates for the period are incorrect.
- The Adjustments should not have a break applied (it pulled 1 unit/hr out of the adjustments).

Day	Pay Type	Field	Job	Hrs	Units	Rate	Total
02/06/2024	ADJ HR R		SUPERVISING	21.5000		0.75	16.13
02/06/2024	Rest & Re		SUPERVISING	1.0000		1.65	1.65
02/06/2024	ADJ HR R		SUPERVISING	234.0000		0.50	117.00
02/07/2024	Rest & Re		SUPERVISING	0.2500		1.65	0.41
02/07/2024	Reg. Hrs		SUPERVISING	4.7500		23.00	109.25
02/09/2024	Rest & Re		SUPERVISING	0.5000		1.65	0.83
02/09/2024	OT Prem.		SUPERVISING	0.0000	1.0000	11.47	11.47
02/09/2024	Reg. Hrs		SUPERVISING	8.5000		23.50	199.75
Totals by Pay Type:							
	ADJ HR R			234.0000		0.50	117.00
	ADJ HR R			21.5000		0.75	16.13
	OT Prem.				1.0000	11.47	11.47
	Reg. Hrs			4.7500		23.00	109.25
	Reg. Hrs			8.5000		23.50	199.75
	Rest & Re			1.7500		1.65	2.89
Totals:				270.5000	1.0000		456.49

Sick Hrs Accrued: 50.92 Sick Hrs Available: 16 Sick Hrs Paid: 24 Paid YTD: \$552.00 Deduction Settings: State: M/2 Federal: M/1/4000,0,0,0

MAKING CORRECTIONS/RETRO PAY

Wage Type Setup

- ✓ Depending on the type of correction, you may need to have multiple Wage Types.
- ✓ Corrections for rate adjustments should have the Base Pay Type set to Piecework.
- ✓ If you are entering missed hours, the wage correction should be by Regular Hours.
- ✓ If you are making prior week corrections on the following pay period, the adjustment should not be included in the Regular Rate of Pay calculations.

The screenshot shows the 'Payroll Wage Types' window with the following configuration:

- Code: WA
- Base Pay Type: Piecework (highlighted with a red box)
- Active:
- Description: Wage Adjustment
- Check Stub: (empty)
- Check Stub Description: Wage Adj.
- Spanish: Ajuste
- Summary Description: (empty)
- Summary Spanish Description: (empty)
- Summarize To: <>
- Combine Lines with Different Rates on Summary
- H-2A Hours Offered/Not Worked
- Check Calculations:
 - Overtime Factor: 1.00
 - Apply Factor to Wages
 - Pair Code: (empty)
 - Include in Regular Rate of Pay Calculations (highlighted with a red box)
 - Bonus Type: Production
 - Minimum Wage: No
 - Shift Differential: 0.00

MAKING CORRECTIONS/RETRO PAY

If you want to make corrections for a prior pay period on the current period check:

1. Using the correct setup for Wage Types, enter your hours in Daily Payroll for the CURRENT pay period only.
2. After you create the check, open it in Check Entry.
3. Add the lines for the wage corrections with actual date(s) worked (if making corrections for a short period) or leave the date blank for adjustments over a longer period.

Day	Pay Type	Job	Hrs	Units	Rate	Total
DATATECH FARMS 9876 Ave 000 FRESNO, CA 93000						
	Wage Adj.	SUPERVISOR	0.00	234.00	0.50	117.00
	Wage Adj.	SUPERVISOR	0.00	21.50	0.75	16.13
02/07/2024	Break	BREAK TIME	0.25		23.00	5.75
02/07/2024	Reg. Hrs	SUPERVISOR	4.75		23.00	109.25
02/09/2024	OT Prem.	SUPERVISOR	0.00	1.00	11.50	11.50
02/09/2024	Break	BREAK TIME	0.50		23.00	11.50
02/09/2024	Reg. Hrs	SUPERVISOR	8.50		23.00	195.50

ACCURATELY ACCRUING & PAYING SICK PAY

- California Employers – Did you update your Sick Pay Plans when the law changed in 2024?
- Sick Pay rate calculations vary by state. However, in most states calculations are based on the work week's RRDP or an average over a lookback period.
- Employees returning to work within a specific period retain their previously accrued sick pay or have their up-front amount available immediately.



ACCURATELY ACCRUING & PAYING SICK PAY

Review Your Plans

Sick Pay Plan Setup

Plan ID: 24
Description: California 2024
State: CA Accrue Sick Pay on Out of State Wages
State Starting Date:
Method: Accrual

Accrual Settings | Lump Sum Settings | Plan Year Settings | Sick Pay Wages

Accrual Rate: 0.033333
Salary Hours/Week: 40
Waiting Period to Accrue: 0 Days
Maximum Annual Accrual: 80.00 Hours
Maximum Weekly Accrual: 0.00 Hours
Maximum Lifetime Accrual: 0 Hours
Maximum Carryover: 0 Hours

Save Clear Delete

Sick Pay Plan Setup

Plan ID: 24
Description: California 2024
State: CA Accrue Sick Pay on Out of State Wages
State Starting Date:
Method: Accrual

Accrual Settings | Lump Sum Settings | Plan Year Settings | Sick Pay Wages

Waiting Period to Pay: 90 Days
Sickpay Work Gap: 30 Days
Max Allowed Sick Pay Per Year: 40.00 Hours
Discard Sick Pay Balance: 365 Days after Termination
Default Sick Pay Rate to Use: Lookback Period
Average Rate Lookback Period: 90 Days
 Automatically Calculate Rate for Daily Payroll
Print on Check Stub: Everything
Check Stub Plan Description: Sick Pay

Save Clear Delete

Check Your Default Sick Pay Plan:
Tools > Program Setup > Payroll Tab > Benefits

ACCURATELY ACCRUING & PAYING SICK PAY

Calculating Pay Rates

To see how the rate is getting calculated through the Daily Payroll Batch Report, run the report for the employee receiving Sick Pay and answer Yes to

(R) on the report indicates the RROP for the pay period is being used.

Acct #/Employee Name				Reg Wages		Excess Overtime		Check Total	
108 CASTRO PEDRO				414.00	0.00			414.00	
Day	G/L #	Job ID	Crop	Grow	Type	PW Hr	Units	Rate	Total
16	601.00	SPRAY	VINE	0	RH	0.0000	8.0000	17.0000	136.00
17	601.00	SICK	VINE	0	SP	0.0000	8.0000	17.2500(R)	138.00
18	601.00	THIN	VINE	0	RH	0.0000	8.0000	17.5000	140.00
Days Worked: 3				Totals:		0.00	16.0000 Hrs		414.00

Datatech Farm Labor Contractor Co.							Ctrl #: 0
Regular Rate of Pay			Sick Pay Rate Calculation				
Plan ID: 24			Rate to Use: R				
Employee: CASTRO, PEDRO # 108							
Check #	Check Date	Date Worked	Wage Type	Hours	Rate	Reg Wages	OT Wages
		03/16/2026	RH	8.00	17.00	136.00	
		03/18/2026	RH	8.00	17.50	140.00	
				16.00	17.25	276.00	
ESPL/FMLA+ 2/3 Rate:					11.50		

ACCURATELY ACCRUING & PAYING SICK PAY

Calculating Pay Rates

If one method can't be used, the software will automatically switch to the other. This means if RROP is selected, but there are no other wages in the week, the program will use the Lookback Period.

(P) on report indicates the Period Lookup is being used

Acct #/Employee Name		Reg Wages	Excess Overtime	Check Total	
108 CASTRO PEDRO		411.20	0.00	411.20	
Day	G/L # Job ID Crop	Grow Type PW Hr	Units	Rate	Total
17	601.00 SPRAY VINE	0 RH 0.0000	8.0000	17.0000	136.00
18	601.00 SICK VINE	0 SP 0.0000	8.0000	16.9000(P)	135.20
19	601.00 THIN VINE	0 RH 0.0000	8.0000	17.5000	140.00
Days Worked: 3		Totals:	0.00	16.0000 Hrs	411.20

Datatech Farm Labor Contractor Co.							
90 Day Lookback			Sick Pay Rate Calculation				
Plan ID: 24					Rate to Use: P		
Employee: CASTRO, PEDRO # 108					12/17/2025 - 03/16/2026		
Check #	Check Date	Date Worked	Wage Type	Hours	Rate	Reg Wages	OT Wages
2645	03/18/2026	03/09/2026	RH	8.00	16.90	135.20	
2645	03/18/2026	03/10/2026	RH	8.00	16.90	135.20	
2645	03/18/2026	03/11/2026	RH	8.00	16.90	135.20	
				24.00	16.90	405.60	
ESPL/FMLA+ 2/3 Rate:					11.27		



ADDITIONAL QUESTIONS?

Thank you
for
attending!

We will be sending a brief survey to get your feedback, including what topics you'd like to see in future webinars. Please let us know your thoughts.