



ESTADO LIBRE ASOCIADO DE PUERTO RICO
DEPARTAMENTO DEL TRABAJO Y RECURSOS HUMANOS

Hon. Román M. Velasco González
Secretario

August 4, 2004

Opinion Number 15297

This is in reply to your letter of July 23, 2004, that reads as follows:

"We represent a large, national client that is undergoing plans to institute a monthly (as opposed to semi-monthly) payroll for all employees exempt under federal and state wage and hour laws. Under this monthly payroll system, our client would pay employees by the 7th day of the month following the month in which work was performed (e.g., on or before February 7th for work performed in January).

According to our research, Puerto Rico is one of only five U. S. states or territories that require semi-monthly payment to exempt employees. Our client employs approximately 23,000 exempt employees across the United States, and is desirous of implementing a new national monthly payroll structure rather than carving out Puerto Rico employees.

The purpose of this letter is to seek your authorization for an exception to this semi-monthly pay requirement in Puerto Rico. We would like to initiate a dialogue with you or other applicable state representatives to understand what steps would be required to obtain a waiver or other grant of permission to institute a monthly payroll in Puerto Rico for exempt employees. If this letter would be better

directed to another state official or agency, please be so kind as to notify the undersigned immediately.

Because of the amount of planning and coordination required to implement these changes, we would appreciate receiving your opinion and direction as soon as possible. Thank you very much for your attention to this matter. Please contact the undersigned at your earliest convenience."

Your inquiry is related to the Act Number 17 of April 17, 1931, as amended, known like "Wage Payment Act".

The Act Number 74 of June 30, 1995 is the recently amendment to Act Number 17. The Section 3 of this Act Number 74 establishes that the payment of wages to the workers must be an interval of fifteen (15) days, except to the administrators, executives and professionals. Also, the Section 6 of the Act Number 17 defines the "employer", "worker" or "employee", and reads as follow:

"Employer.- Shall be understood to mean any person who uses or avails him/herself of the work of any worker or employee through the payment of wages. The word "worker" or "employee" shall mean the person who receives a salary or wages for his/her work in any occupation, excluding executives, administrators and professionals, as these terms have been defined by the Minimum Wage Board of Puerto Rico. . ." (Our emphasis)

We trust the information provided is responsive to your inquiry.

Cordially,


Andrés Espinosa Román, Esq.
Assistant Secretary for Legal Affairs