

FLSA-695

June 27, 1983

This is in reply to your letter of June 18, 1983, asking on behalf of a client, whether certain travel time is compensable hours of work under the Fair Labor Standards Act (FLSA).

You state your client is engaged in the interstate transportation of motor homes. These vehicles can accommodate a driver and his family and friends, if the driver so desires. The drivers are not required to make any particular trip, they may choose among the units, and choose not to go if they wish. You state that the drivers choose routes of their own and hours of their own when driving. If they go on a particular trip, they may choose to return and take another unit on another trip; or, they may stay in the location in which the vehicle is delivered (or any other destination they may have) for vacation, or other purposes. On the few occasions when your client requests a driver to return to take another unit, (s)he pays the driver for returning. However, in all other instances, where your client has no economic interest in whether the driver returns, (s)he does not pay the employee for a return trip.

Based on the above information, you ask if the motor home is transported to an interstate destination and your client does not require, nor request, a driver to return to the place of manufacture, must your client compensate the driver for the time spent traveling back to the manufacturing plant.

In determining whether the time spent by an individual in performing certain traveling activities is compensable under the FLSA, it must first be determined whether there is an employment relationship. Based on the information above, it appears that with the exception of those drivers specifically requested to return to the manufacturing plant, the employment relationship is terminated when the motor home is delivered to its destination. Therefore, it is our opinion that if the employee has a clear understanding that the employment relationship will end with the delivery of the motor home to a particular location, your client need not compensate the driver for the time spent in returning to the manufacturing plant.

You also ask whether any expense money given to drivers which is in excess of actual expenses incurred on a trip may be considered as compensation paid to a driver for purposes of satisfying the monetary requirements of the FLSA.

Under the FLSA, wages may include cash payments and the reasonable cost or fair value of board, lodging, or other facilities as explained in more detail in the enclosed copy of 29 CFR Part 531. Funds given to employees for reimbursement of expenses incurred on behalf of the employer and which are in excess of those expenses actually incurred are wages under the FLSA. Thus, such sums may be used to satisfy the monetary requirements of the FLSA.

Sincerely,

William M. Otter
Administrator

Enclosure