

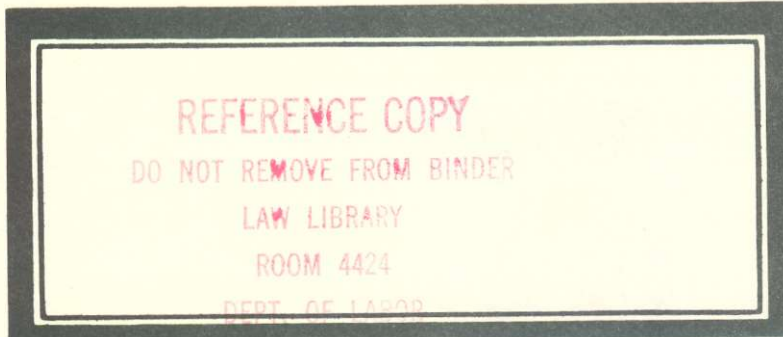
Wage and Hour and Public Contracts Divisions
Washington

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This letter is to clarify the application of the section 13(a)(2) exemption contained in the Fair Labor Standards Act to combination hotel-restaurant-gambling casino establishments.

Employees of a hotel or restaurant establishment meeting the tests of section 13(a)(2), who are engaged in the operations of the hotel or restaurant as such, are exempt from the minimum wage and overtime requirements of the act, regardless of whether or not the hotel or restaurant or combination thereof operates on a seasonal basis. However, employees engaged in the operations of a gambling casino, even though part of a hotel or restaurant enterprise are not exempt and, if covered (as explained in our previous letters) are subject to sections 6 and 7 of the act (copy enclosed).

There are in addition in such combined establishments various employees such as bookkeepers, custodial workers, maintenance workers, and others whose work relates in part to the gambling casino as well as to the hotel. As an enforcement policy such an auxiliary employee will be considered as within the section 13(a)(2) exemption in any workweek in which an insubstantial amount of his time (20 percent or less) is allocable to the clerical, custodial, or maintenance work of the casino.

Interpretations in the form of published bulletins or opinion letters indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the administration of the act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon re-examination of an interpretation, that it is incorrect. The act does not provide for "appeals boards".

Sincerely yours,

Wendell F. LINDGREN

Administrator

Enclosure

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