

MINIMUM WAGE LAW: IGNORANCE IS NOT BLISS

Professionals who have heard reports that they may be exempt from paying the minimum wage to their employees better check closely where they stand or they may be heading for costly trouble.

The confusion has been caused by a clause in the minimum wage laws referring to establishments that are considered to be "amusement or recreational." If they truly qualify, these establishments do not have to pay the minimum wage under certain circumstances.

Generally, the exemption works like this: If you are a seasonal operator and do 75 per cent of your business in a six-month period, it is possible to qualify for this exemption. This restriction could easily cover golf courses in the northern parts of the country where golf is seasonal.

But here is the hitch as the Labor Department's experts explain it:

"Country and town clubs that are not open to the general public, but are available only to a select group of persons who have been specifically elected to club membership, are not considered amusement or recreational establishments because they are not frequented by the public for its amusement or recreation."

Of course, many golf shop operators at private clubs consider themselves private contractors rather than employees of the club and therefore entitled to their own form of exemption. But in general this is how the Federal government views the shop operator at a club not

Professionals should check out the fine print in the minimum wage law before deciding they are exempt. Penalties for violation of the law are severe by WILLIAM LOOMIS

exempted from paying minimum wages:

The Government considers the golf shop at a private club to be somewhat similar to that of a shop operating as a lease holder in a department store, the store in this case being the club. Therefore, the Government considers such enterprise as part of one business and not exempt from minimum wage laws. This definition also holds true for the golf professional paying wages to assistants for other services offered members.

However, a golf shop at a country club or golf course can be exempt from the wage laws if the shop is open to the general public. But the shop must be a "distinct place of business" say Federal officials. That means it must be separate from other facilities of the club and easily accessible to the general public. The warning here is this: The private golf club golf shop open to the general public must be truly accessible to the general public. If it is hard to find or if a potential customer finds it hard to gain access to the club grounds to reach the shop, then Federal officials might

easily rule that the shop is not serving the general public.

For the shop operator who qualifies as serving the general public, there is this major rule of thumb. He can qualify as exempt from minimum wage laws if his annual business, exclusive of such things as excise taxes, is less than \$250,000 annually and he meets some special tests on business percentage that should be checked personally with the Federal government.

By contrast, in most cases, caddies are exempt from the wage laws even at private clubs. The Government takes the position that the caddie essentially works for the golfer, who is directly or indirectly responsible for paying him for services rendered. However, if the caddie also performs other club services, such as keeping greens, working in the golf shop part time or in the locker room, the exemption normally does not apply.

Federal officials advise that golf shop operators become as familiar as possible with the fine print of these laws before they conclude they are or are not exempt from Federal regulations. Violations of the law can be costly.

By a variety of methods the Labor Department can require anyone who violates the law to make good on any unpaid minimum wages. And if it is ruled that anyone willfully violated the laws, fines can run as high as \$10,000, and a second conviction could result in a jail sentence. □