



DATE: April 19, 2010
TO: Our Valued Client Partners & Friends
FROM: HIB Account Team
RE: **EMPLOYER ALERT 2010-05**
Issues to Consider When Reducing Wages, Benefits in Lieu of Layoffs

We are pleased to bring you our **Employer Alert 2010-05: Issues to Consider When Reducing Wages, Benefits in Lieu of Layoffs**. This was an article printed by the California Chamber of Commerce on April 9, 2010 which addresses another very topical issue in the current economic environment.

We hope you find this useful and please, if you have any questions, contact your HIB Account Team for assistance.

**ISSUES TO CONSIDER WHEN REDUCING WAGES,
BENEFITS IN LIEU OF LAYOFFS**

The Helpline continues to receive questions about reducing employees' wages, hours and benefits, in lieu of laying off employees. Below are some of the issues to be considered before taking such actions.

The first consideration is whether you have made any commitments or promises—either verbal or written—about compensation and benefits.

Do you have employment contracts, commission agreements, an offer letter, employee handbook or collective bargaining agreements that address these issues? If the answer is “yes” to any of these, consult with your legal counsel before taking any action.

REDUCING COMPENSATION

An employer may choose to cut wages across the board by a specific percentage, or may choose a class of employees, such as managers and above. You must be sure that you are not discriminating, even unintentionally, against any one class or group of employees—such as all employees over 40 years old.

No minimum advance notice of pay adjustments is required. You may reduce compensation that has not yet been earned.



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For example, today is April 9. You can announce that effective May 1, 2010, there will be a reduction in wages across the board of a specific amount. You cannot make the reduction in pay retroactive—that money has already been earned.

You must make sure, however, that non-exempt employees do not fall below the state minimum wage of \$8 per hour. Exempt employees must be paid a salary of at least two times minimum wage, or \$33,280 a year or \$2,773.33 a month.

REDUCING BENEFITS

You may not reduce or eliminate an employee's accrued or earned vacation or paid time off (PTO). You may change accrual rates going forward, however. Much as in the prior example, announce that at some date in the future, the accrual rate will decrease and let the employees know what the new accrual rate will be.

Unlike vacation or PTO, which is protected by state law, sick leave may be reduced or changed at any time. If you currently convert unused sick leave to vacation time or permit the payout of sick leave, however, consult with your legal counsel before making any changes to your policy.

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