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We have employees who work 35 or 40 hours, Monday through Friday, and receive the minimum wage per hour of service. But the Social Security Treasury (TSS) bills for the minimum monthly wage, as if they were working 44 hours. Would we be protected if we agreed with each employee to pay the minimum hourly wage? What risks are there?

Yes, there is a risk involved, and it is the following: There would be no consistency between what you agree individually with each employee, and what the TSS billing/certification will reflect.

For example, assuming you pay the highest minimum wage: RD\$24,990, and your employee works 35 hours per week; you will be paying him/her approximately RD\$15,169.09 (depending on whether the month has 4, 4.5 or 5 weeks): $RD\$24,990 \div 23.83 = RD\866.80 , daily wage $\div 8 = RD\$108.35$, hourly wage $\times 35$ hours per week = $RD\$3,792.27 \times 4$ weeks = $RD\$15,169.09$ per month.

However, the TSS invoice/certification will be reflecting a monthly salary of RD\$24,990.

This means that when you intend to liquidate based on RD\$15,169.09, that liquidation will not coincide with the TSS certification, and that could be a

problem in court, since the employee's lawyer could argue that the liquidation is incomplete or insufficient, and that could justify a dimision (constructive discharge), or worse, that at the time of an desahucio (dismissal at-will), the employee refuses to receive the severance pay, alleging that the calculation should be made based on what is reported in the TSS.

To prevent this, I suggest that you go to the TSS, explain your case, and get them to give you what they call a "waiver" (or "dispensa"). And explain that it will be a recurring situation, so that the waiver is not limited to one month.