REGULATORY FRAMEWORK FOR BUSINESS TRANSACTIONS (RFBT)

CPALE Concept Notes

LABOR LAW

Source: REO Live (Atty. Kris), ReSA Lecture (Atty. Nicko), CPAR Lecture (Atty. Kid)

Topics Covered:

8. Law on Other Business Transactions
- *8.9. Labor Law*
  - *8.9.1. Labor Standards*
    - *8.9.1.1. Basic pay*
    - *8.9.1.2. Overtime premium*
    - *8.9.1.3. Night shift differential*
    - *8.9.1.4. Holiday premium*
    - *8.9.1.5. 13th month pay*
    - *8.9.1.6. Leaves*
    - *8.9.1.7. Service incentive leave*
    - *8.9.1.8. Maternity leave*
    - *8.9.1.9. Paternity leave*
    - *8.9.1.10. Parental leave for solo parent*

Preliminaries

- **Labor Standards** – minimum requirements of employment
- **Labor Relations** – regulation of relationship between EE and ER

Coverage of the Labor Standards under the Labor Code

- All employees in all establishments and undertakings whether for profit or not

XPNs *(Excluded in the Coverage of the Labor Code):*
- Government employees *(Civil Service Law)*
- Managerial employees and their officers – a position of *trust and confidence (Serves at the pleasure of the board)*
- Field personnel
- Persons in the personal service of another, such as secretary and personal or executive secretary *(Unpredictable demand at work)*
- Domestic helpers *(Kasambahay Law)*
- Workers paid by results
- Dependent family member (who is also an employee) of the employer

Summary of Applicable Rates

For Regular Hourly Wage *(Normal 8 Hours)*	
Ordinary Working Day	100%
Rest Day OR Special Holiday	130%
Rest Day AND Special Holiday	150%
Regular Holiday	200%
- *If Not Worked*	100%
Regular Holiday AND Rest Day	260%
Double Regular Holiday	300%
- *If Not Worked*	200%
Double Regular Holiday AND Rest Day	390%

For Overtime Hours *(Exceeding Normal Hours)*	
Ordinary Working Day	125%
Rest Day and/or Any Holiday	130%

Basic, Night Shift Differential, and Overtime Pay

BASIC PAY: Based on Normal Hours of Work

- ***Normal Hours of Work:*** *Maximum of 8 hours per day*

  Includes:
  - Time wherein employee is required to be on duty
  - Time wherein employee is to be at a prescribed workplace *(whether or not on duty)*
  - Time wherein employee is suffered or permitted to work, regardless of place *(work from home set-ups)*
  - Rest periods of short duration, *__not exceeding 20 minutes__ (coffee breaks)*

  Excludes:
  - Mandatory meal periods of *__at least 60 minutes__*

NIGHT SHIFT DIFFERENTIAL PAY: Minimum of 10% of Basis

- For work done ***between 10PM to 6AM***, regardless if part of the employee's regular shift
- Basis (Both Adjusted as to any Premium Pay subject to):
  - **Regular Hourly Wage** if *__within the normal (8) hours of work__*
  - **Overtime Hourly Wage** if *__beyond the normal hours of work__*

OVERTIME PAY

Minimum of 25% of Basis for a Regular Working Day
Minimum of 30% of Basis for a Rest Day or Any Holiday

- Basis: **Regular Hourly Wage, Adjusted by any Premium Pay**
- In any case, overtime work shall be paid with the additional compensation, whether voluntary or required

__General Rule:__
Overtime is voluntary

__XPNs__ (May be required by employer):
- Country is **at war** or a declared national or local emergency
- Necessary to prevent loss of life or property, or in case of imminent danger to public safety due to an **emergency** *(also applies to rest days)*
- Necessary to prevent loss or damage to **perishable goods** *(also applies to rest days)*
- Work completion is necessary to prevent **serious** obstruction or prejudice to **employer's business or operations**
- Urgent work to be performed on machines, installations, or equipment to **avoid serious loss or damage to the employer** *(also applies to rest days)*

__Overtime Premium__ *(Different to Overtime Pay)*
- Difference of *__what was paid__* for the overtime hours as to *__what would have been paid__* if it was within normal work hours

Overtime Pay *(Regular Wage x No. of OT Hrs.)*	xx
__What if Normal Hours *(Normal Wage x No. of OT Hrs.)*__	(xx)
Overtime Premium	**xx**

Rest Day and Holidays

WEEKLY REST DAY

- **Right to Weekly Rest Day:**
  At least 24 consecutive hours after every 6 consecutive normal work day (G.R.)

  XPNs *(Employer may require work on a rest day):*
  - Necessary to prevent loss of life or property, or in case of imminent danger to public safety due to an **emergency**
  - Urgent work to be performed on machines, installations, or equipment to **avoid serious loss or damage to the employer**
  - Necessary to prevent loss or damage to **perishable goods**
  - **Abnormal pressure** of work due to **special circumstances** where the employer can't be ordinarily expected to resort to other measures
  - **Nature of the work** requires continuous operations, and its stoppage may result in irreparable injury or loss to the employer
  - Other analogous or similar circumstances as determined by the DOLE Secretary

__General Rule:__
The ***employer*** determines the employee's rest day

__XPNs__ (Limitations):
- Collective bargaining agreement
- Rules and regulations by the DOLE Secretary
- Employee's preference based on ***religious*** grounds

SPECIAL HOLIDAY

Holidays, working or non-working, that are:

- ***Not within the list of the Regular Holidays*** under the Labor Code *(plus the two Muslim holidays)*
- *Common Special Non-Working Holidays*
  - *Ninoy Aquino Day (Aug. 21)*
  - *All Saints Day (Nov. 1)*
  - *All Souls Day (Nov. 2)*
  - *Feast of the Immaculate Concepcion (Dec. 8)*
  - *Christmas Eve (Dec. 24)*
  - *Last Day of the Year (Dec. 31)*
  - *Black Saturday*
  - *Chinese New Year*
- May be observed only in one locality or throughout the country *(as opposed to regular holidays – country-wide)*
- Not compensable if unworked

Worked on	Applicable Rate
Either *a Rest Day or Special Holiday*	130%
Both *a Rest Day and Special Holiday*	150%

REGULAR HOLIDAY

Exclusive to the following list under the Labor Code:

1. New Year (January 1)
2. Maundy Thursday
3. Good Friday
4. Araw ng Kagitingan (April 9)
5. Labor Day (May 1)
6. Eid'l Fitr
7. Independence Day (June 12)
8. Eid'l Adha
9. National Heroes Day (Last Monday of August)
10. Bonifacio Day (November 30)
11. Christmas Day (December 25)
12. Rizal Day (December 30)
13. The day designated by law for holding a general election *(every 3 years only)*

As to a Regular Holiday	Applicable Rate
Worked	***200%*** *(Double Pay)*
*Did Not Work**	***100%*** *(as a General Rule)*
Worked on a Double Regular Holiday	***300%***

If Did Not Work on a Regular Holiday

General Rule:
Entitled to 100% of the Regular Daily Wage

XPNs (Not entitled to Holiday Pay):

- Absent without pay (leave) on the ***day prior to the holiday***
- Absent without pay (leave) on the day prior to successive holidays *(such as Maundy Thursday and Good Friday)*
  - *If he worked on the first holiday, he is entitled to holiday pay of the following holiday*
- Absent without pay (leave) on the ***day prior to his rest day or a special holiday***, *followed by a regular holiday*

Comprehensive Example or Situations

SITUATION 1:

Leana worked from 8AM to 5PM, with a one-hour meal break. Her regular hourly rate is 500. Compute her wage for the day. *(Work hours is only 8 hours, as the meal break is not compensable)*

Case 1: Worked on an Ordinary Working Day

Rate per Hour: 500 x 100% = 500 rate per hour
Wage (Pay) for the Day: 8 hours x 500 per hour = **4,000**

Case 2: Worked on her Rest Day OR a Special Holiday

Rate per Hour: 500 x 130% = 650 rate per hour
Wage (Pay) for the Day: 8 hours x 650 per hour = **5,200**

Case 3: Worked on her Rest Day, which is also a Special Holiday

Rate per Hour: 500 x 150% = 750 rate per hour
Wage (Pay) for the Day: 8 hours x 750 per hour = **6,000**

Case 4: Worked on a Regular Holiday

Rate per Hour: 500 x 200% = 1,000 rate per hour
Wage (Pay) for the Day: 8 hours x 1,000 per hour = **8,000**

Case 5: Worked on her Rest Day, which is also a Regular Holiday

Rate per Hour: 500 x 260% = 1,300 rate per hour
Wage (Pay) for the Day: 8 hours x 1,300 per hour = **10,400**

Case 6: Worked on a Double Regular Holiday

Rate per Hour: 500 x 300% = 1,500 rate per hour
Wage (Pay) for the Day: 8 hours x 1,500 per hour = **12,000**

Case 7: Worked on her Rest Day, which is also a Double Regular Holiday

Rate per Hour: 500 x 390% = 1,950 rate per hour
Wage (Pay) for the Day: 8 hours x 1,950 per hour = **15,600**

SITUATION 2:

Mark worked from 9AM to 7PM, with a lunch break from 12nn to 1PM. His regular hourly wage rate is 200. Compute his wage for the day. *(Work hours is only 9 hours, as the meal break is not compensable)*

- First 8 Hours is from 9AM to 6PM, including the lunch break
- Overtime Hour is 1 hour (9hrs – 8hrs normal)

Case 1: Worked on an Ordinary Working Day

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage *(Normal Hours)*	200 x 100% = 200	x 8 hours	= 1,600
Overtime Pay	200 x 100% x 125% = 250	x 1 hour	= 250
Total Wage (Pay) for the Day			**= 1,850**

Case 2: Worked on her Rest Day OR a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage *(Normal Hours)*	200 x 130% = 260	x 8 hours	= 2,080
Overtime Pay	200 x 130% x 130% = 338	x 1 hour	= 338
Total Wage (Pay) for the Day			**= 2,418**

Case 3: Worked on her Rest Day, which is also a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage *(Normal Hours)*	200 x 150% = 300	x 8 hours	= 2,400
Overtime Pay	200 x 150% x 130% = 390	x 1 hour	= 390
Total Wage (Pay) for the Day			**= 2,790**

Case 4: Worked on a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	200 x 200% = 400	x 8 hours	= 3,200
Overtime Pay	200 x 200% x 130% = 520	x 1 hour	= 520
Total Wage (Pay) for the Day			= 3,720

Case 5: Worked on her Rest Day, which is also a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	200 x 260% = 520	x 8 hours	= 4,160
Overtime Pay	200 x 260% x 130% = 676	x 1 hour	= 676
Total Wage (Pay) for the Day			= 4,836

SITUATION 3:

Porter worked from 4PM to 1AM as his regular shift, inclusive of a one-hour dinner break from 8PM to 9PM. His regular rate is 300 per hour. Compute his wage for the day. *(Work hours meet the normal working day of 8 hours, as the dinner break is not compensable)*

- Night Shift Differential Hours is 10PM to 1AM (3 hours)
  Basis: Regular hourly wage as NSD falls to normal hours

Case 1: Worked on an Ordinary Working Day

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	300 x 100% = 300	x 8 hours	= 2,400
NSD Pay	300 x 100% x 10% = 30	x 3 hours	= 90
Total Wage (Pay) for the Day			= 2,490

Case 2: Worked on her Rest Day OR a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	300 x 130% = 390	x 8 hours	= 3,120
NSD Pay	300 x 130% x 10% = 39	x 3 hours	= 117
Total Wage (Pay) for the Day			= 3,237

Case 3: Worked on her Rest Day, which is also a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	300 x 150% = 450	x 8 hours	= 3,600
NSD Pay	300 x 150% x 10% = 45	x 3 hours	= 405
Total Wage (Pay) for the Day			= 4,005

Case 4: Worked on a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	300 x 200% = 600	x 8 hours	= 4,800
NSD Pay	300 x 200% x 10% = 60	x 3 hours	= 180
Total Wage (Pay) for the Day			= 4,980

Case 5: Worked on her Rest Day, which is also a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	300 x 260% = 780	x 8 hours	= 6,240
NSD Pay	300 x 260% x 10% = 78	x 3 hours	= 234
Total Wage (Pay) for the Day			= 6,474

SITUATION 4:

Maddy worked from 1PM to 12AM, with a one-hour meal break. Her regular rate is 500 per hour. Compute her wage for the day. *(Work hours is only 10 hours, as the meal break is not compensable)*

- First 8 Hours is from 1PM to 10PM, including the meal break
- Night Shift Differential Hours is 10PM to 12AM (2 hours)
  Basis: Overtime hourly wage as NSD falls to overtime hours
- Overtime Hours is 2 hours (10hrs - 8hrs as normal)

Case 1: Worked on an Ordinary Working Day

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	500 x 100% = 500	x 8 hours	= 4,000
Overtime Pay	500 x 100% x 125% = 625	x 2 hours	= 1,250
NSD Pay	500 x 100% x 125% x 10% = 62.50	x 2 hours	= 125
Total Wage (Pay) for the Day			= 5,375

Case 2: Worked on her Rest Day OR a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	500 x 130% = 650	x 8 hours	= 5,200
Overtime Pay	500 x 130% x 130% = 845	x 2 hours	= 1,690
NSD Pay	500 x 130% x 130% x 10% = 84.50	x 2 hours	= 169
Total Wage (Pay) for the Day			= 7,059

Case 3: Worked on her Rest Day, which is also a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	500 x 150% = 750	x 8 hours	= 6,000
Overtime Pay	500 x 150% x 130% = 975	x 2 hours	= 1,950
NSD Pay	500 x 150% x 130% x 10% = 97.50	x 2 hours	= 195
Total Wage (Pay) for the Day			= 8,145

Case 4: Worked on a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	500 x 200% = 1,000	x 8 hours	= 8,000
Overtime Pay	500 x 200% x 130% = 1,300	x 2 hours	= 2,600
NSD Pay	500 x 200% x 130% x 10% = 130	x 2 hours	= 260
Total Wage (Pay) for the Day			= 10,860

Case 5: Worked on her Rest Day, which is also a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Regular Wage (Normal Hours)	500 x 260% = 1,300	x 8 hours	= 10,400
Overtime Pay	500 x 260% x 130% = 1,690	x 2 hours	= 3,380
NSD Pay	500 x 260% x 130% x 10% = 169	x 2 hours	= 338
Total Wage (Pay) for the Day			= 14,118

SITUATION 5:

Same with Situation 4 - Maddy, but instead, compute for her *Overtime Premium* for the day.

Case 1: Worked on an Ordinary Working Day

	Hourly Rate	x No. of Hrs.	= Total
Computed Overtime Pay	500 x 100% x 125% = 625	x 2 hours	= 1,250
Less: Usual Regular Pay	500 x 100% = 500	x 2 hours	= (1,000)
Overtime (OT) Premium			**= 250**

Case 2: Worked on her Rest Day OR a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Computed Overtime Pay	500 x 130% x 130% = 845	x 2 hours	= 1,690
Less: Usual Regular Pay	500 x 130% = 650	x 2 hours	= (1,300)
Overtime (OT) Premium			**= 390**

Case 3: Worked on her Rest Day, which is also a Special Holiday

	Hourly Rate	x No. of Hrs.	= Total
Computed Overtime Pay	500 x 150% x 130% = 975	x 2 hours	= 1,950
Less: Usual Regular Pay	500 x 150% = 750	x 2 hours	= (1,500)
Overtime (OT) Premium			**= 450**

Case 4: Worked on a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Computed Overtime Pay	500 x 200% x 130% = 1,300	x 2 hours	= 2,600
Less: Usual Regular Pay	500 x 200% = 1,000	x 2 hours	= (2,000)
Overtime (OT) Premium			**= 600**

Case 5: Worked on her Rest Day, which is also a Regular Holiday

	Hourly Rate	x No. of Hrs.	= Total
Computed Overtime Pay	500 x 260% x 130% = 1,690	x 2 hours	= 3,380
Less: Usual Regular Pay	500 x 260% = 1,300	x 2 hours	= (2,600)
Overtime (OT) Premium			**= 780**

13th Month Pay

Equivalent to ***1/12 of the Total Basic Salary Earned*** *(excludes de minimis benefits and allowances, unless the employer allowed to do so)* by the employee within a calendar year

Payment:

- Not later than December 24
- Only through **cash**, but may be in the form of Christmas bonus, midyear bonus, profit sharing payments and other cash bonuses
    - Free rice, share dividends, cost of living allowances are *not valid substitutes*

Entitlement:

- All rank-and-file employees who have ***worked for at least 1 month during the calendar year*** *(full-time or part-time)*

Leaves

SERVICE INCENTIVE LEAVE (SIL) – Art. 95, Labor Code

- At least ***5 days with pay*** annually
- Applies to both full-time and part-time workers, as long as the employee has *rendered at least 1 year of service*
- Separate and distinct from a CBA-governed Vacation (VL) and Sick Leaves (SL), but may absorb such VL/SL

	Mandatory *(Required by Law)*	**Purpose**
SIL	✓	To alleviate workers' economic condition
VL/SL	✗ *(Employer's Discretion, and may be absorbed by the SIL)*	To afford a laborer a rest and acquire new vitality

General Rule:
Not cumulative and not commutable (convertible) to cash

XPN:
- Convertible to cash ***upon employee's choice***

PATERNITY LEAVE (PL) – RA 8187

- ***7 days with full pay*** for the first 4 deliveries
- Not cumulative nor commutable to cash

Requisites for Entitlement:

- ***Married*** male, employed at the time of delivery
- Birth, miscarriage, or abortion of the ***legitimate spouse he co-habits with***
- Within the *first four deliveries* *(including miscarriages)*
- Notified the employer of the pregnancy and the expected date of delivery *(unless miscarried or aborted)*
- Must be availed not later than 60 days after the date of delivery *(may be enjoyed before, during, or after the delivery)*

SOLO PARENTS LEAVE (SPL) – RA 8792, as amended by RA 11861

- Maximum of ***7 days annually***, in addition to any other leaves
- Not cumulative
- Must have rendered *at least 6 months of service* *(previously 1 year)*

VAWC VICTIMS' LEAVE

- Maximum of ***10 days with pay***, in additional to other paid leaves
- Not cumulative nor convertible to cash

SPECIAL LEAVE FOR WOMEN AFTER SURGERY CAUSED BY GYNECOLOGICAL DISORDERS (GDL)

- ***2 months with full pay***, based on gross monthly compensation
- Must have rendered *at least 6 months of continuous aggregate service for the last 12 months*

MATERNITY LEAVE (ML) – SSS Law and RA 11210

- Applies to all female workers, *regardless of civil status or the child's legitimacy*
- Granted **at every instance of pregnancy, miscarriage, or emergency termination** of pregnancy
  (no more limit as to frequency; old law – only up to 4 pregnancies)
- Availed in a *continuous and uninterrupted manner*

As to Live Birth:

- ***105 days*** with full pay
- *Additional:*
  15 days with full pay if *solo parent*
- *Optional:*
  Additional 30 days ***without pay*** *(upon written notice to the employer at least 45 days before the end of the original leave)*
- *Post-natal (after delivery) period*
  Shall be a ***minimum of 60 days*** of the whole leave
    - Thus, the earliest that a female worker can file for leave is 45 days before expected delivery

- *Allocable **(Exclusive to Live Birth)**:*

Instances	Allocable To	Days Allocated
At the ***female worker's option*** *(still alive and capacitated)*	Child's Father *(Whether married to or not)*	Up to 7 Days
Upon the female worker's ***death, absence, or permanent incapacity***	• Child's Father, or • A Qualified Alternate Caregiver	The Balance of the Benefit

  - The benefits may be allocated to the child's father or an alternate qualified caregiver, provided that a *written notice* is provided to their respective employers

Qualified Alternate Caregiver:

  - A *relative within the 4th degree of consanguinity*, or
  - The current partner of the female worker ***sharing the household*** *(any gender)*

As to Miscarriage and Emergency Termination:

- ***60 days*** with full pay
- *Additional:*
  15 days with full pay if solo parent
- *Optional:*
  Additional 30 days ***without pay***

Summary of Leaves

	Entitled Period	Required Period of Service	Convertible to Cash?	Cumulative?
SIL	5 Days, Minimum	At least 1 year	× *(XPN: Employee's choice)*	×
PL	7 Days, Fixed	No minimum required	×	×
SPL	7 Days, Maximum	At least 6 months	×	×
VAWC	10 Days, Maximum	No minimum required	×	×
GDL	2 Months, Maximum	At least 6 months in the past 12 months	×	×
ML	105 Days, Extendable	No minimum required *(only as to SSS contributions)*	×	×

- Only ***Service Incentive Leave*** is specifically provided under the Labor Code