

## Employee Benefits under the Labor Standards Law

The Labor Standards Law stipulates various labor conditions that employers must observe to protect employees' benefits. This issue covers the major points a company should know when setting up payroll in Japan.

### ■ Working Hours and Mandatory Rest Day

The Japanese Labor Standards Law requires an employer not to have an employee work more than 40 hours per week and 8 hours per day, excluding recess time. The minimum requirements for recess are 45 minutes for over 6 hours' work, and one hour for over 8 hours' work. The employer also shall not have an employee work on a mandatory rest day (*Hotei kyujitsu*), one day per week. The rest day is not necessarily on Saturday or Sunday.

### ■ Overtime Pay

Regardless of the preceding paragraph, the employer can extend working hours or can have an employee work on holidays if the employer and an employee, who is representing a majority of employees, enter a written agreement (so called "Article 36 Agreement"), which defines conditions such as applicable employees. Maximum overtime can be extended. The limit of overtime hours is not referred in the law, but a limit should be set in accordance with the government guideline: 45 hours per week and 360 hours per year. The employer is required to pay an increased salary for the overtime work or holiday work at the following premium rates:

Overtime ( after net 8hours)	25%	(*1)
Holiday (rest day) work	35%	
Midnight work (22:00-5:00)	25%	
Overtime + midnight	50%	
Holiday + midnight	60%	

(\*1) 50% will apply for the excess of 60 hours per month. Small/medium businesses under certain categories are currently exempt from the 50% rule.

Overtime pay is not applicable to managerial positions, except the midnight premium.

### ■ Annual Paid Vacation

Labor Standards Law requires an employer to grant an annual leave of 10 working days to employees who worked continuously for 6 months. After 1.5 years of employment, the increased days are given as per the following schedule:

Years of employment	0.5	1.5	2.5	3.5	4.5	5.5	6.5+
Entitled days	10	11	12	14	16	18	20

Employees must work 80% of working days of the preceding year to be entitled. Unused days can only be carried forward to the following year. After two years, the unused days are forfeited. Prorated days are granted to part-timers based on their scheduled work days.

### ■ Maternity Leave

Female employees are eligible to the maternity leave for 6 weeks before and 8 weeks after childbirth. The pre-birth leave is given upon request by the employee, but the post-birth leave must be given regardless of the employee's intention even she requests to return to work. During the maternity leave, cash benefits are provided by health insurance, and employee and employer are exempt from social insurance contribution. For further information, please refer to the vol 26 of this newsletter. It focuses on the maternity leave and the childcare leave, which is prepared for employees after maternity leave.