

Is It Legal For a Prospective Employer to Ask Me What I Make Now?



You can send your workplace questions to Stephen at: StephenSays@bellow.press

Questions selected to be answered, will appear in this column. Please use the Subject: Stephen Says for all emails. Stephen Viscusi is a bestselling author, television personality, and CEO of The Viscusi Group, global executive recruiters located in New York. Follow Stephen on Twitter @stephenviscusi, Like Stephen on Facebook; and follow him on LinkedIn.

Dear Stephen:

I am in the process of changing jobs, but I am running into some unexpected roadblocks and questions. Specifically, hiring companies keep on asking me what my base salary is and what was on my W2 last year. Who do they think they are? Are they just doing this to nickel and dime me and offer the lowest possible number? One manufacturer even wants a three-year salary history, including a pay stub. Is this even legal? What nerve!

Some Boundaries, Please

Dear Boundaries,

I am not a lawyer and cannot tell you what is legal and what is not legal. It also, quite frankly, depends on where you live and

where you plan to work. That being said, I am in New York City, and I can tell you in the city proper it is illegal to ask a job applicant for documentation of their current pay. I believe the same is true in Oregon, parts of California, Massachusetts, Delaware, Philadelphia and Puerto Rico. Different cities and states all have their own laws, but you get the idea.

Here is the thing: Many major furniture companies are based in Michigan, Iowa, Wisconsin and North Carolina. In other words, they're in the Midwest and down south. The truth is, for better or worse, these are states without

these laws and where the laws likely won't be changing any time soon. Of course, if the job is in New York City or some other place I mentioned, local laws will apply, and it's more than just a nerve these companies have. But if you are elsewhere, a request for your salary history might not only be legal, but standard operating procedure. If, however, the company is in the Midwest, but the territory is New York City, for example, then the local law applies. Can't ask, don't have to tell!

Understanding why these companies ask is important. If you work in sales, your job is designed to drive company rev-

Employers tell me if a candidate is cagey about sharing income history and will only tell their prospective employer what they want to make, that story only ends one way.

enue, and your pay for that job is awarded according to your success in that one metric. What this really means is your income is a direct and literal reflection of how well you can do your job and how much money you can make a company. A low income often means you may not be a great salesperson, and refusing to furnish your pay stubs may lead companies to draw the worst conclusions. In fairness, it could also mean you just have a really bad pay plan, but that is a topic for another column. It really is that simple. If they ask for it and it's legal, give it to them no matter how much you don't like it.

This is not always a hard-and-fast rule. In other areas of the business, such as non-revenue generating positions — like sales assistants, customer service reps, showroom managers, designers, project managers and operations and marketing roles — income is

not a fair barometer of an employee's worth and is often times completely arbitrary. A low quality operations manager at one company may be making \$100K more than their exceptionally talented counterpart at a rival company. That is just the way things shake out.

I understand precluding companies from asking about wages is a nice political talking point, and I can certainly see how it can directly benefit the lives of some people, especially those making low hourly wages, but the truth is I simply do not see these sort of laws spreading. Sorry, Boundaries, but you are stuck.

And guess what? While my clients would never ask for a documented income statement in a place where it is illegal (such as New York City), it is more often than not expected that candidates for a sales job will give an example of their income entirely

unsolicited. It isn't illegal, if they don't ask. They can certainly ask what your sales goal was and/or what your sales revenue was for the previous three years. That is the norm, and if you're uncomfortable with it, it might be tough to find a sales job in this world. Most quality salespeople see the number on their W2 as a badge of honor to be compared to that of the next guy. Those who are worried about sharing their income with a prospective employer may not have what it takes to get the job. Legal or not, here is the dirty little secret you should know: Employers tell me if a candidate is cagey about sharing income history and will only tell their prospective employer what they want to make, that story only ends one way. The company will very politely thank the candidate for their time and forget they even applied for the job.

Stephen