

**Goals: This session should help the participant:**

- Understand when and how to pay employees who work overtime.

**1. Federal law defines requirements for overtime pay premiums.**

- The federal Fair Labor Standards Act (FLSA) applies to most employers.
 - Employers may be exempt *if* annual gross volume is under \$500,000 and they're not involved in, or producing goods for, interstate commerce.
 - Employees of exempt firms may still be covered *if* their jobs involve interstate commerce (e.g., work in communications or transportation).
- FLSA requires covered employers to pay nonexempt employees a premium for overtime work.
- Nonexempt employees who work more than 40 hours in a workweek must receive one-and-a-half times their regular hourly rate for hours 41 and up.
 - FLSA defines a workweek as 7 consecutive 24-hour periods.
 - FLSA counts only hours worked, not paid time off, toward overtime.
 - FLSA bases overtime on hours worked per week, not per day.
 - You can't average pay over several weeks to determine overtime.
- Employees can't give up the right to overtime pay or a rate of at least one and one-half times the regular rate for overtime pay.
 - Employers must post government notices covering federal overtime rules.

2. Know how to calculate overtime pay.

- Hourly nonexempt employees get one and one-half times their regular hourly rate.
 - This must include shift differentials, bonuses, commissions, etc.
- Salaried nonexempt employees get one and one-half times their hourly rate (divide weekly salary by hours in the fixed workweek) for hours worked over 40.
 - If* the regular workweek is 35 hours, employees receive their regular hourly rate for hours 36 to 40 and one and one-half times that rate for hours 41 and above.
- Employers are permitted to require employees to work overtime.
 - It's best to give employees advance notice of overtime needs.
 - It's advisable to distribute overtime evenly among employees, whether they consider it burdensome or desirable.

3. FLSA makes some occupations exempt from overtime pay requirements.

- Overtime exemptions are not determined by job title, salaried status, or "white" vs. "blue" collar.
- Many salaried white-collar employees are exempt from overtime *if* they:
 - Receive at least \$913 per week (effective December 1, 2016).
 - Receive at least \$455 per week (changes to the overtime regulations that would have raised the minimum weekly salary threshold to \$913 per week on



December 1, 2016, are stayed until further action either by the courts or the Department of Labor (DOL)).

- Are paid on a salary basis (note that there are a few exceptions to this rule).
- They meet special duty criteria established by the DOL.

- Employees who meet these criteria for overtime exemption may include:
 - Administrative** employees who use discretion and independent judgment to perform office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers.
 - Executive** employees who perform mainly management tasks, regularly direct the work of two or more employees, and have some influence in hiring, firing, and promotions.
 - Professional** employees who perform mainly work that requires advanced knowledge and study in a field of science or learning or depends primarily on the employee's invention, imagination, originality, or talent.
 - Computer professionals** who work as computer systems analysts, programmers, software engineers, and workers in similar computer-related jobs. They can be paid the required minimum salary or earn \$27.63 per hour.
- **Outside sales employees** who are making sales or obtaining orders or contracts for services or the use of facilities and customarily and regularly work away from the employer's place or places of business.
 - Under the Motor Carrier Act exemption to the FLSA, the overtime provisions of the FLSA do not apply to motor carriers, such as truck drivers and their helpers, operating in interstate or foreign commerce.
- The FLSA exempts various other specific employees (e.g., certain highly compensated employees, certain domestic or agricultural employees, and certain retail salespeople).

Applicable regulations: Fair Labor Standards Act (FLSA)

Summary:

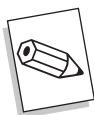
Know overtime pay requirements so that you can include them in work and budget planning and see that employees receive pay to which they're entitled.

Discussion tips:



- Distribute copies of the handout and discuss any questions participants have about overtime pay.
- Discuss specific positions in your organization and how to determine if they qualify for overtime pay.

Knowledge review:



- Have participants complete the Overtime Pay quiz. It provides a useful review of their understanding of the subject.