

Labor Laws & Salaried Employees

by Grace Ferguson



Salaried employees are usually exempt from overtime pay, but not always. How employees are paid are just one part overtime exemption laws.

Hourly employees are generally paid according to the amount of hours they work during the pay period, while salaried employees receive a fixed weekly, bi-weekly or monthly wage. The United States Department of Labor administers the Fair Labor Standards Act, which sets the rules for how employees are paid, whichever classification they are in, including overtime.

Identification

According to the DOL, salary means that the employee receives a fixed amount of pay that is determined before the pay period begins. The salary can make up all of her pay, or it can be part of it. But it must be an amount that she can count on each payday. Employers typically determine pay period salary by dividing the annual amount by the number of yearly pay periods, usually weekly or bi-weekly.

Exempt Criteria

Under the FLSA, nonexempt workers are those not excluded from minimum wage and overtime pay laws. While exempt workers are those excluded from overtime pay. Most nonexempt workers are hourly employees and most salaried employees are exempt. The employer cannot categorize the employee as exempt at will; nor can it label him exempt to escape paying overtime. The employee must meet the FLSA's job or wage-related requirements to obtain exempt status. If the employee does not meet the criteria, then he can be paid on a salary basis. In this case, he qualifies for overtime pay, if worked.

Notably, the employee can be exempt, such as a doctor or a school teacher, but be paid on an hourly basis. The employer should always check with his state labor board if it needs clarification on exempt employees.

Considerations

Outside salespersons, administrative, executive, and professional workers are exempt, provided they satisfy the FLSA wage and or job duties requirements. Furthermore, most highly compensated workers earning \$100,000 or more are exempt.

For example, the executive worker is exempt if she earns no less than \$455 per week, commonly performs non-manual or office labor linked to the company's

overall operations or management, and uses her discretion and personal judgment when necessary.

Work Requirements

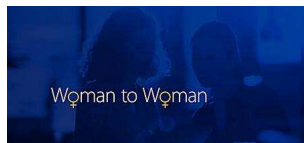
In general, the salaried employee must receive his entire pay despite the number of hours or days he works. But he doesn't work at all in the work week, the employer doesn't have to pay him at all for that week. As long as the employee is willing and ready to work, the employer cannot reduce his pay because work is unavailable. It also cannot reduce his pay for partial-day absences. Specifically, if he takes a half-day off, he still gets paid for the whole day.

The employer can make permissible deductions in certain instances, such as overuse of benefit days, unpaid disciplinary suspension and personal leave. If the employer makes a habit of performing impermissible deductions, it can lose the exemption; meaning, the employee becomes nonexempt.

Misconception

A salaried worker may believe that her salary status excludes her from time clock punching. But the FLSA does not prohibit the employer from requiring the salaried employee to punch a time clock.

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About the Author

Grace Ferguson has been writing professionally since 2009. With 10 years of experience in employee benefits and payroll administration, Ferguson has written extensively on topics relating to employment and finance. A research writer as well, she has been published in The Sage Encyclopedia and Mission Bell Media.

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