



The New FLSA 2024-2025 Overtime Rules

As an employer, you are bound by rules that govern overtime pay.

BY LYNN HOMISAK, PRT

To Our Readers: *There are no foolish questions. Chances are that if you have a question or concern in your practice, others are experiencing a similar situation. We're here to help. PM [doctor and staff] readers are encouraged to submit questions to soslynn@gmail.com which will be printed and answered in this column anonymously.*

Topic: Attention: The New FLSA 2024-2025 Overtime Rules

Dear Lynn,

I've always been under the assumption that because I pay my office manager a salary, she is considered an exempt employee. And as my salaried manager, she and I have an understanding that regardless of how many hours it takes her to complete her work, she would not expect over-

time pay. In return, I will not question times when she works fewer than 40 hours. This arrangement seems fair and is working just fine.

When it comes to employee pay, the question you want to ask yourself

that employers make (knowingly or unknowingly) revolves around the distinction of exempt employee vs. non-exempt employee, so let's clarify what an exempt employee is.

Exempt employees: In order to classify your newly designated "office

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is, Are you meeting the requirements dictated by the Fair Labor Standards Act (FLSA)? Requirements are administered and enforced by the Department of Labor (DOL). And do you realize that as an employer, you are bound by their rules which govern, in this case, overtime pay?

Sadly, one of the biggest mistakes

manager" as an exempt employee, she or he must meet (all) three specific requirements:

- 1) They must receive a salary.
- 2) Their salary must not be less than the FLSA salary threshold (Figure 1), which as of July 2024, is \$43,888 annually (\$844/week), an in-

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THE CONSULTANT IS IN

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crease from the previous \$35,568 (\$684/week). As of Jan 1, 2025, the annual salary threshold will again escalate to \$58,656.⁽¹⁾ Because of this updated ruling, it is expected that employees who were formerly exempt will need to be re-categorized to non-exempt status, and therefore entitled to overtime.

3) Finally, giving someone a title alone does not qualify them for exemption status. An employee's title alone is not the sole qualifier to determine their exempt classification. If your exempt employee is not actually primarily performing the necessary duties and responsibilities



which you describe in your post are unacceptable if they are contrary to the written laws. The FLSA does not differentiate between “approved” and “unapproved” overtime. This means, for example, that if “salaried

ees. They will still get paid their regular wages plus overtime for any hours worked over 40.

To avoid confusion, it is suggested that you more accurately designate each employee as “exempt” or “non-exempt” as opposed to “salaried” or “hourly”. While it is true that a bona-fide, exempt employee must be salaried, a salaried employee may be non-exempt and is therefore entitled (by law) to receive overtime.

- If your legit exempt office manager already meets the FLSA 2024 annual salary threshold of \$43,888, you're good (at least until the next increase in Jan. 2025). If he or she does not meet the threshold, increasing their salary now will put you in compliance.

- If an employee's status changes from exempt to non-exempt because of this new ruling, you can enforce limitations by stipulating to staff that all overtime hours must be approved in advance.

- Overtime pay may not be waived: The overtime requirement may not be waived by agreement between the employer and employees. A newly classified employee cannot work extra hours without overtime pay, even if they insist “it's okay!” It is illegal.

Non-compliance Comes with a Price Tag

What if your current arrangement no longer meets the new ruling, but

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with independent judgment outlined within one of these EAP designations: Executive, Administrative, or Professional, they are not considered exempt. “Duties tests” to determine these distinctions can be found on the DOL website. <https://www.dol.gov/agencies/whd/fact-sheets/17a-overtime>.

Realize, too, that in-house agreements or “understandings” between you and your staff similar to that

Office Managers” (who do not meet exempt status) and other non-exempt employees DO put in for OT hours, the employer is obligated to pay them at the appropriate (OT) rate of one and a half their hourly rate over 40 hours. Ultimately, as their employer, you are the one responsible for seeing that they are paid appropriately.

What you should do: Nothing, if you only have non-exempt employ-

FIGURE 1

FLSA Salary Threshold

DATE	STANDARD SALARY LEVEL	HIGHLY COMPENSATED EMPLOYEE TOTAL ANNUAL COMPENSATION THRESHOLD
Before July 1, 2024	\$684 per week (equivalent to \$35,568 per year)	\$107,432 per year, including at least \$684 per week paid on a salary or fee basis.
July 1, 2024	\$844 per week (equivalent to \$43,888 per year)	\$132,964 per year, including at least \$844 per week paid on a salary or fee basis.
January 1, 2025	\$1,128 per week (equivalent to \$58,656 per year)	\$151,164 per year, including at least \$1,128 per week paid on a salary or fee basis.
July 1, 2027, and every 3 years thereafter	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.

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it's unlikely that you will conform and make the necessary changes? Maybe you think that your employees are very happy and would never expect ANY of them to cause a stink that threatens a lawsuit.

While your "harmonious workplace" should be applauded, situations change. Issues regarding OT or other compensation may not present a problem at this time; however, these issues could absolutely be (and many times are) the bone of contention and legal basis in the event of a parting of ways. So many things and emotions (feelings of inequality, jealousy, discrimination, being let go, etc.) can spur an unexpected dispute about their salary. Don't think that they do not talk to each other and compare notes. They do.

Compliance is something that you should take very seriously. In fiscal year 2023, the DOL success-

fully recovered over \$274 million in back wages and damages for more than 163,000 workers nationwide. In healthcare alone, that number exceeds 31.8 million! Employees are filing a record number of lawsuits under state and federal wage and hour laws, so heed the warning.

It is also important to refer to your own state jurisdiction on matters of OT and Comp Time. Do your research, get advice from a trusted employment attorney, and do the right thing...for everyone involved. For YOU!

Footnote

*On May 21 2024, three business groups sued the U.S. Department of Labor to block this new overtime rule, which may result in a delay or reversal of this ruling. Since a decision can drop before this printing, it is recommended you research its current status for the most up-to-date information. **PM***

Resources

<https://search.usa.gov/search/docs?utf8=%E2%9C%93&affiliate=www.dol.gov&query=new+overtime+pay+for+exempt&dc=4955>

<https://www.dol.gov/agencies/whd/overtime/rulemaking>

<https://www.patriotsoftware.com/blog/payroll/new-salary-threshold-overtime/>



Ms. Lynn Homisak, President of SOS Healthcare Management Solutions, carries a Certificate in Human Resource Studies from Cornell University School of Industry and Labor Relations. She is the 2010 recipient of Podiatry Management's Lifetime Achievement Award and was inducted into the PM Hall of Fame. She is also an Editorial Advisor for Podiatry Management Magazine and is recognized nationwide as a speaker, writer, and expert in staff and human resource management.