

Fair Labor Standards Act

March 2016

Overview

- What is the Fair Labor Standards Act (FLSA)
- Exemptions from the FLSA
- Changes to FLSA
- Impact to Employees
- Contact information

What is the Fair Labor Standards Act (FLSA)

- Federal Law Established in 1938
- **Protect employees**
 - Establishes minimum wage
 - Overtime pay eligibility and Rate
 - Recordkeeping
 - Child labor standards
- Affects full-time and part-time
- Employees cannot give up their rights

What is the Fair Labor Standards Act (FLSA)

- FLSA requires hourly employees be paid:
 - At least the federal minimum wage for all hours worked (currently \$9.00/hour in state of Nebraska)
 - Overtime premium (at time and one-half the regular rate of pay) for all hours worked over 40 hours in a workweek
- FLSA provides an exemption from both minimum wage and overtime premium pay for executive, administrative, and professional employees (often referred to as 'white collar' exemption).
 - Salary basis test
 - Duties test

What's Changing

- Salary Basis test: Increase from \$455/week (\$23,660/ annually) to \$913/week (\$47,476/ annually).
- Salary basis will automatically be updated every three years starting January 2020.
- Effective date of change is December 1, 2016

Misconceptions and Myths

- Employees who are paid on a salary basis are exempt from overtime
 - Exemption decisions are based on the job duties and responsibilities, not on being paid hourly or by salary.
- If an employee's job title is that of manager, supervisor, or administrator, he or she is exempt from overtime
 - Title is not determinative. The job duties, not the title, determine the exemption
- Employees who are college educated and perform white-collar office work are exempt
 - Job duties, not education or clothing, are the determinates of the exemption

Misconceptions and Myths

- Employees who have advanced degrees are exempt
 - Job duties, not education or experience are the determinates of the exemption
- If employees prefer to be paid a salary and do not want to record their time, it is OK to treat them as exempt
 - Employees can't give up their rights under the Fair Labor Standards Act and employers must maintain their obligations under the Act, including tracking hours worked and paying overtime
- If employees who have been classified as exempt don't work overtime, it doesn't matter if they are misclassified
 - Perhaps their amount of pay won't be affected, but the employer is still violating provisions of the FLSA. For example, the recordkeeping requirements of the FLSA must be adhered to, and there are other tricky situations relating to meal periods, breaks, time off, and leave that may cause potential challenges

Impact to 12-month Employees

- Change from exempt to non-exempt
 - Eligible for overtime
 - Required to track hours worked (time sheet)
 - Unpaid 30 minute lunch period
 - Two Paid 15-minute breaks
 - Biweekly pay basis (26 times a year)
 - Vacation and sick accrual amounts won't change, but frequency of accrual changes from monthly to biweekly
 - Benefit premiums paid 24 times a year vs. 12

Contact Information

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