

Treasurer's Tips #8

New Overtime Rules Taking Effect in 2020---What This Means for Churches

The Department of Labor has issued final rules which will update the earnings thresholds to exempt management, administrative, or professional employees effective January 1, 2020. Churches are not exempt from these rules.

The only real change to the rules is the salary threshold below which everyone must be paid overtime. Currently that salary threshold is \$455 per week, or \$23,660. The new rule will increase that to \$684 per week, or \$35,568 annually.

Examples of employees who are non-exempt and must be paid overtime are church secretaries, clerical workers, administrators, nursery workers, sextons, cooks, and organists. The DOL is not proposing any change to the **duties test**. In order for a church employee to be exempt from overtime, **all three** of these tests must be met:

1. The Salary Basis Test – The employee must be paid a fixed salary amount and,
2. The Salary Level Test – The amount of salary paid must meet the minimum specified amount and,
3. The Duties Test – The employee's job duties must primarily involve executive, administrative, or professional duties as defined by regulations. Their job must be management, and they should exercise independent judgement in the regular course of performance of their job duties.

Non-exempt employees must be paid time and a half for all hours worked over 40 in one week. The minimum wage must be paid and the church cannot award "comp time" in lieu of overtime pay, even if the employee requests it. Additionally, the church must pay for travel time, breaks, and for on call/waiting time.

Accurate record-keeping of hours is a must for non-exempt employees, even if they are paid a salary.

A time clock is best. A daily time sheet is good, and a weekly time sheet is OK. The Diocese has an account with www.timeclockwizard.com with unlimited users, and your church is welcome to utilize it. Please contact Susan Burns at 843-722-4075 if you are interested. It allows clocking in from a computer or mobile device.

It is important to review all your staff positions now, since reclassifying someone as non-exempt due to these new rules will impact your 2020 budget.

Ministerial Exception

The FLSA does not explicitly exempt ministers from overtime and minimum wage rules, however, courts have found that a number of employment laws do not apply to employees directly involved in religious duties. Therefore, ordained clergy, youth ministers, faith formation ministers, etc., normally would not

be subject to these rules. If you have questions about a specific position, it is best to seek the advice of legal counsel.

Teachers

A number of our churches have schools and employ teachers. If so, they are exempt from overtime. In order to qualify for exemption, however, they must be bona fide teachers with higher education and a certificate if one is normally required. Pre-school teachers whose job is ordinarily to care for the needs of the child, rather than teach, would not be exempt.

For additional information, please visit www.dol.gov/whd/overtime2019.

Updated 01.01.2021