

Disclaimer:

Please review all the information with your legal counsel for accuracy in your jurisdiction. This information is general in nature and may not be specific to each state or municipality.

I am not a lawyer - so I cannot give legal advice.

I am not an Accountant or CPA - so I cannot give financial advice.

I can only provide information regarding these topics and will convey what Best Practices I have seen that address these exposures.

My comments and information provided are advisory and contain the best information available at the time.

I provide this information from a Risk Management and Insurance perspective.

Don Sweeting

Q. How does OT apply to commissions from golf lessons?

A. Overtime is based on a 40 hour work week calculating the regular rates of pay. Commissions should be calculated into the regular rate of pay. If the employee exceeds 40 hours in any work, then each hour over 40 would be 1.5 times the regular rate of pay.

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs23.pdf>

<https://www.dol.gov/sites/dolgov/files/WHD/fact-sheets/whdfs82.pdf>

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs20.pdf>

Jacque Madison, PGA

Q. I have seen in job posts recently - teaching allowed on your own time. Will you comment on this?

A. It depends on who pays for the teaching and if the club receives any money for the lessons.

If it is a transaction between the member and the instructor without any club involvement, it would be most likely off the clock and not counted toward work hours.

If the club has any transaction involvement or receives any money from the lesson, it could be considered on the clock since the club received a benefit of the lesson.

This should be detailed in writing in the offer letter provided to the employee or revised for current employees. Make sure your legal counsel reads and approves any and all types of document like this.

Also, "your own time" will need to be defined in this document.

Joey Hickman

Q1) Where can we find the list of exempt employees?

A. There is not a list per se. There is a test and categories. There are only two categories: Exempt and Non-Exempt.

https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fs17a_overview.pdf

What does exempt mean?

Employers are not required to pay overtime to employees who are properly classified as exempt. They may, however, choose to compensate such individuals for extra hours worked through benefits packages.

What is a non-exempt employee?

Non-exempt employees are usually paid an hourly wage or earn a salary that's less than a minimum amount determined by the DOL.

What does non-exempt mean?

If employees are non-exempt, it means they are entitled to minimum wage and overtime pay when they work more than 40 hours per week.

FLSA overtime rule

According to the FLSA, employers must pay non-exempt employees no less than time and one half their regular pay rate for each hour over 40 in a workweek. If a non-exempt employee isn't paid by the hour, the hourly rate can be calculated by dividing the total compensation earned by the total hours worked. Vacation, holidays or sick days should not be included when performing these calculations unless the employee worked on those days.

Exempt employee overtime

The DOL has established guidelines to determine who is eligible for overtime pay. ***Employees may be considered exempt if they are paid a salary, earn at least \$684 per week or \$35,568 annually, and perform the job duties of one of the exempt professions (administrative, executive, etc.).*** Highly compensated employees who make \$107,432 or more per year are also not required to be paid overtime.

Salary vs. hourly pay

Pay alone doesn't determine whether an individual is exempt or non-exempt, but it may dictate workplace policies. For instance, employers who have hourly workers must track time and attendance to ensure payroll accuracy. Timekeeping usually isn't as important with salaried employees unless incentives are offered to those who put in extra hours.

Salaried non-exempt employees

Employers should not automatically assume that employees can properly be considered exempt under the FLSA just because they earn a salary. If workers don't meet the requirements of an appropriate duties test, earn less than \$684 per week or \$35,568 per year, or have certain deductions taken from their salary, they may be eligible for overtime pay.

Employee classification

Failure to properly distinguish exempt from non-exempt employees, sometimes referred to as misclassification, can adversely affect businesses. Misclassification may result in:

- Regulatory enforcement action
- Fines and penalties
- Employee lawsuits for unpaid overtime
- Costs to remedy misclassification

Q2) If an Assistant is paid \$500/week and works 60 hours, is he eligible for overtime?

A. https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fs17a_overview.pdf

Administrative Exemptions To qualify for the administrative employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684* per week;
- ***If workers don't meet the requirements of an appropriate duties test, earn less than \$684 per week or \$35,568 per year, or have certain deductions taken from their salary, they may be eligible for overtime pay.***

Scott Flynn

Q. Does lesson income, perhaps at \$50 per hour, need to be considered in determining the average hourly wage rate in calculating overtime if their base hourly rate in the shop is only \$15 per hour?

a. ***Yes. Overtime is based on a 40 hour work week calculating the regular rates of pay. Commissions should be calculated into the regular rate of pay. If the employee exceeds 40 hours in any work, then each hour over 40 would be 1.5 times the regular rate of pay.***

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Kevin Walls

Q. With COVID, Clubs have been allowed to have curbside pick up on F&B and states have relaxed laws on allowing liquor as well to be picked up....how about liquor liability on insurance.

A. ***Liquor Liability laws differ by state.***

Liquor Liability Insurance policies differ by carrier.

In addition to having Liquor Liability insurance, organizations should make sure that:

- ***Employees delivering orders to the customer's vehicle must be at least 18 years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.***

Review your current Liquor Liability Insurance Policy. Look for two specifics.

1. Exclusions

2. Endorsements

If you are not sure, your local insurance agent or Liquor Liability insurance carrier can answer your questions.