WASHINGTON STATE
OVERTIME EXEMPTION
CHANGES - 2021

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November 4-5, 2020
MINIMUM WAGE ACT REQUIREMENTS

• State law requires workers:
  • Be paid a minimum wage;
  • Receive overtime for time worked over 40 hours per work week
  • Receive paid sick leave
  • Protection from retaliation or discrimination for exercising their rights under RCW 49.46.100.

• There are workers who are “exempt” from these protections.
WHO IS EXEMPT FROM OVERTIME PAY REQUIREMENTS?

• Minimum Wage Act provides an exemption from the state minimum wage and overtime pay requirements for employees who are:
  
  • Executive, Administrative or Professional, certain computer professionals

Note: Being “exempt from civil service” does not equate to being “exempt from overtime rules.”
QUALIFYING FOR THE EXEMPTION

• To qualify for the exemption the classified employee must satisfy two tests:

  • Salary basis test

  • Job Duties test (consider only duties actually performed)
    • Executive, Administrative & Professional, Computer Professional each have their own duties analysis to meet the exemption. WAC 296-128-510, -.520, -.530

• Teachers, Doctors DO NOT need to meet salary threshold requirements.
CHANGES TO OVERTIME RULES- L&I

• Effective January 1, 2021, L&I’s new salary threshold for overtime exempt employees:

  • Employees must earn a salary of 1.75 times the minimum wage or $958.30 a week or $49,831.60 per year.

• Effective January 1, 2021, L&I’s new salary threshold for hourly computer professionals:

  • 3.5X the state minimum wage i.e. $47.92/hour.
# WA State’s Phased In Salary Threshold

<table>
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<tr>
<th>Start</th>
<th>Multiplier</th>
<th>MinWage</th>
<th>MinMultiplier</th>
<th>Annual</th>
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<tbody>
<tr>
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<td>1.25</td>
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**Federal FLSA Salary Basis (1/1/2020): $35,568 (annual)**
APPLYING THE SALARY THRESHOLD

- Salary threshold is applied to total compensation rather than base pay.

- Reevaluate application of exemption if circumstances change impacting total compensation.

- What counts?

- NOTE: Federal rules have different requirements for what payments can count towards the federal salary threshold.
HANDLING STATE AND FEDERAL DIFFERENCES

• Where differences exist between Washington State and federal overtime rules, the employer must follow the rule that is most favorable to the worker.

<table>
<thead>
<tr>
<th></th>
<th>STATE</th>
<th>FEDERAL</th>
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<tr>
<td>July 1, 2020</td>
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<td>Jan. 1, 2021</td>
<td>$965/wk</td>
<td>$684/wk</td>
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</table>

• Employers need to follow state salary standards beginning Jan. 1, 2021.
GUIDANCE MOVING FORWARD

• Action needed:
  • Review job descriptions to ensure positions continue to meet duties test.
  • Clearly identify exempt duties on the position description form.
  • Apply the three tests previously discussed.
  • Re-review the position if circumstances change mid-year.
GUIDANCE MOVING FORWARD (SPLIT PAY RANGES)

• Split pay ranges (HE WPEA & WFSE and GG WFSE & Coalition): 40-51*

• **Option A:** Employees would switch from overtime eligible to overtime exempt mid-pay range as they naturally move up.

• **Option B:** Employee’s in pay ranges that switch between overtime exempt and overtime eligible mid-pay range would all be changed to overtime eligible.

• **Option C:** Move all salaries above the threshold.
RESOURCES

- Changes to Overtime Rules Q&A
- Overtime Rules Resources
- L&I_EAPTrainingModule
- Exempt_NonExempt-Fact Sheet
- RCW 49.46.010(3)(c)
- WAC 296-128

Questions, please contact:
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