
WAGE AND HOUR LAW BASICS



FAQs Regarding Commissions and the Administrative Exemption from Overtime

1. What is the administrative exemption from overtime?

The administrative exemption, under the Fair Labor Standards Act (FLSA), exempts certain employees from overtime pay requirements. To qualify, employees must perform office or non-manual work related to the management or general business operations of the employer or the employer's customers and must exercise discretion and independent judgment on significant matters.

2. Who qualifies for the administrative exemption?

Employees qualify for the administrative exemption if they:

- Perform office or non-manual work directly related to the management or general business operations of the employer or the employer's customers.
- Exercise discretion and independent judgment with respect to matters of significance.
- Meet the minimum salary threshold set by law.

3. What are the salary thresholds for the administrative exemption?

- **As of 07/01/24:** \$43,888 annually (\$844/week)
- **As of 01/01/25:** \$58,656 annually (\$1,128/week)

4. How do commissions factor into the administrative exemption?

Commissions can be included in the total compensation for the administrative exemption. Up to 10% of the minimum weekly salary can be met with commission payments, provided they are paid at least annually.

5. What if an employee has a base salary plus commissions?

- The total compensation (base salary + commissions) must meet the minimum salary threshold.
- Up to 10% of the minimum weekly salary can be met with commissions, as long as the commissions are paid at least annually.
- Example: If the minimum weekly salary is \$844 (as of 7/1/24), up to \$84.40 of this amount can come from commissions.

6. Do we need to track hours for employees under the administrative exemption?

No, if the employee meets the duties and salary requirements for the administrative exemption, there is no need to track their hours worked.

7. What happens if an employee's commissions vary each pay period?

As long as the total compensation (base salary + commissions) meets the minimum salary threshold over the applicable pay period, the employee remains exempt. The variability of commissions does not affect their exempt status as long as the minimum requirements are met.

8. What if an employee's base salary meets the minimum threshold without commissions?

If the base salary alone meets or exceeds the minimum salary threshold, any additional commissions earned do not affect the employee's exempt status. No further adjustments are needed.

9. How should we handle pay adjustments for the upcoming salary threshold changes?

- Ensure that by 7/1/24, employees meet the new threshold of \$43,888 annually (\$844/week).
- By 1/1/25, adjust salaries to meet the increased threshold of \$58,656 annually (\$1,128/week).
- There is no need for retroactive pay adjustments; changes should be made going forward from the respective dates.

10. How should we manage commissions for employees who leave before the end of the year?

If an employee leaves before the end of the year, calculate their total compensation (base salary + commissions) up to their last day of employment. Ensure they met the minimum salary threshold during their employment period. If needed, provide supplemental pay to meet the exemption requirements.

11. Can we increase pay but deduct certain fees previously covered by the company?

- Deductions must not reduce an employee's pay below the minimum salary threshold.
- Deductions benefiting the employer are generally not allowed. Deductions that benefit the employee may be permissible, depending on state laws.

Disclaimer: The above information is provided for general guidance purposes and is not intended to be legal advice. Compliance determinations must be made on a case-by-case basis and depend on various factors. You should consult a licensed attorney with employment law experience to determine specific actions.