

OVERTIME RULES

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OVERTIME

✘ Who is exempt from overtime?

- 4 primary exemptions
- “Administrative” employees
- “Executive” employees
- “Professional” employees
- “Highly compensated” employees

Additional exemptions can be found in N.D.A.C. § 46-02-07-02(4)

OVERTIME (CONT.)

- ✘ “Administrative” employees are those whose primary duties consist of:
 - Performance of office or non-manual work directly related to management policies or general business operations of the employer, AND
 - Customarily and regularly exercise discretion and independent judgment

Possible examples include: a project manager, finance manager, marketing manager, etc.

N.D.A.C. § 46-02-07-01(1)

OVERTIME (CONT.)

- ✘ “Executive” employees are those whose primary duties consist of:
 - Management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision,
 - Directs the work of two or more employees, AND
 - Authority to hire, fire, promote other employees (or ability to influence those decisions)

Possible examples include president, CEO, vice president of international affairs, etc.

N.D.A.C. § 46-02-07-01(6)

OVERTIME (CONT.)

- ✘ “Professional” employees are those whose primary duties consist of:
 - Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study,
 - Work requiring consistent exercise of discretion and judgment, AND
 - Work that is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time

Possible examples include attorneys, physicians, etc.

N.D.A.C. § 46-02-07-01(10)

OVERTIME (CONT.)

- ✘ A “highly compensated” employee is one who:
 - Paid total annualized compensation of \$100,000 or more,
 - Receives at least \$455/week, AND
 - Primary duties consist of office or non-manual work

N.D.A.C. § 46-02-07-01(7)

OVERTIME (CONT.)

- ✘ New overtime rule issued by USDOL
 - Current federal regulations require “administrative”, “executive”, and “professional” employees receive at least \$455 per week (\$23,660 per year)
 - New rule increases this floor to \$913 per week (\$47,476 per year)
 - Effective December 1, 2016

OVERTIME (CONT.)

- ✘ Employers frequently misclassify employees as exempt from overtime.
- ✘ Costly – employees can recover up to two years of overtime pay (possibly three)
- ✘ An employee cannot be both exempt and non-exempt (what are the employee's primary duties?)
- ✘ Enforcement priority for USDOL

QUESTIONS? CONTACT US:

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