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The Fair Labor Standards Act (FLSA)

- The FLSA was enacted in 1938
- The FLSA covers several workplace matters, including:
 - Minimum Wage Rate
 - Overtime
 - Employment/Use of Interns & Volunteers

The Fair Labor Standards Act (FLSA)

➤ Overtime Under the FLSA

- Employees not covered by the FLSA (Exempt from the Act)
- Those who **are** covered by the FLSA (*Exempt or Nonexempt from Overtime*)

➤ **Exempt** = Salaried Employees* *who meet required \$\$Pay and Duties Test*

- No entitlement to overtime/compensatory time

➤ **Nonexempt** = Hourly Workers*

- Work performed > 40 hours/week = overtime
- Overtime is **paid @ Time and a half for hours over 40 per work week**

* It is advisable to avoid the use of the terms “hourly or “salaried”

The Fair Labor Standards Act (FLSA)

➤ Regardless of salary, the FLSA exempts the following categories of employees from coverage of the Act:

➤ Clergy*

➤ Religious*

➤ Teachers (including substitutes and tutors)

➤ Coaches who spend much time teaching athletes

* - Unless working in a non-ministerial capacity



The Fair Labor Standards Act (FLSA)

➤ How does the DOL decide if an employee is Exempt?

- Step 1 - Salary Test - objective criteria
- Step 2 - Duties Test - subjective

The Fair Labor Standards Act (FLSA)

Exempt from the FLSA?

Step 1 - SALARY TEST

- CHANGE EFFECTIVE Jan. 1, 2020 :
Minimum salary level for Exemption...

From:

\$455/week

\$23,660/year

To:

\$684/week

\$35,568/year

The Fair Labor Standards Act (FLSA)

Exempt from the FLSA?

Step 2 - DUTIES TEST – Assuming SALARY TEST is met:

- **Executive Exemption**
 - Primary duty -Manage entity's general business operations
 - Supervise ≥ 2 employees - exercise significant HR authority
- **Administrative Exemption**
 - Office/non-manual work related to business operations
 - Apply discretion and independent judgment
- **Professional Exemption**
 - Work requires advanced science or specialized knowledge acquired by a prolonged course of specialized intellectual instruction.

The Fair Labor Standards Act (FLSA)

Options for the currently Exempt positions that are affected?

- Retain current Exemptions
 - Pay the new minimum salary (\$35,568)
 - Cost may be prohibitive for many jobs
- Convert current Exempt jobs with full-time annual salaries below \$35,568 to Nonexempt
 - Risk of overtime obligations
 - **Accounting and documentation of work hours required**
 - Need for widespread understanding
 - All work performed is compensable

The Fair Labor Standards Act (FLSA)

Strategies to Consider:

- **Establish a standard work week** and communicate it to staff (Recommend biweekly cycle with Sunday to Saturday work week)
- **Document and track work hours and leave** -> Timesheets
- **Enact restrictions** on any work >40 hours/week without express permission – should be in writing
- **Time-shifting** (allowing employees to change work days/ hours within the week to avoid the obligation of overtime)
- **Designate a “timekeeper”** whose job it is to collect and document/enter work data for payroll purposes.

The Fair Labor Standards Act (FLSA)

Concern Areas:

- Volunteering Time
- No “Comp” (Compensatory) Time
- Donating Overtime
- Working from Home
- Extended working hours for special events
- Travel and Overnight Activities
- Multiple Jobs – Joint Employment

Overtime: >40 Hours - Two Different Jobs

➤ A Joint employer relationship may result in overtime when:

- 2 or more jobs with employers that are not “sufficiently disassociated”; or
- One employer is under common control with other employer

➤ Need to check to see if your Parishes with Schools are “sufficiently associated”

➤ **When the 2 jobs are different, the “primary duty” governs FLSA status**

- *Example #1: Employee is a Teacher at the Parish School and is an after care worker at the school*
 - Primary duty must be determined (usually teaching = Exempt).

- *Example #2: Employee is secretary for Parish and after care worker for School*

➤ Both jobs are Nonexempt, but with different pay rates

- Calculate a “regular hourly rate”

How Standardized Payroll Can Help

Run payroll reports.

Your target individuals are:

Individuals who need to make \$684 a week

Individuals who need to make \$1368 bi-weekly



Review job descriptions and ensure that the duties tests is being met.

Priorities

17

Educate Business Managers/Pastors on FLSA

- Who's Eligible for Overtime
- Emphasize Accurate Job Descriptions

Provide Strategy for January 1 Reclassifications

- Refer to Duties Test, Fact Sheets
- Most Cases = Track Hours & Pay Overtime


Educate on FLSA

Business Managers, Principals & Pastors need to learn the FLSA pieces that apply to the situations they supervise.

Exempt/Hourly need to understand what FLSA means to them.

Exempt = No Overtime

Classifications determined from actual work and duties test (no change/update to this)



Communication, Communication,
Communication!!!

Ongoing communication

Education must be part of the process

Education and Communication need to
be made available at every level and
through various media