

## **Guidelines for Churches in Regard to Exempt versus Non-Exempt Status and Overtime Pay**

There are several considerations for churches to understand how to classify and pay employees. These are generally contained in the Fair Labor Standards Act. The guidelines have recently changed so it is important to review these guidelines or the law to ensure you are properly paying employees.

Basically, all churches who receive mail (interstate commerce) and have 2 or more employees are covered by the Fair Labor Standards Act.

First, you need to properly classify employees as to whether they are exempt from overtime pay or non-exempt (they receive overtime pay when certain conditions are met).

Non-exempt employees are those who perform janitorial, secretarial, and bookkeeping duties, for example, as their primary tasks.

Exempt employees include the clergy. Clergy salaries are exempt from the minimum salaries below.

The Department of Labor has an informative Fact Sheet. Most of the information here comes from that Fact Sheet. <https://www.dol.gov/agencies/whd/fact-sheets/17a-overtime>

Here are the guidelines for determining exempt versus non-exempt, in brief.

### **1: Salary**

Minimum salary effective July 1, 2024 – full or part time is \$844 per week to be considered exempt. This will rise to \$1,128 beginning January 1, 2025. Clergy are exempt from this provision, but other church workers are not likely to be.

This is set to automatically increase every 3 years.

### **2: Job Duties**

There are 3 primary tests of occupational duties that help decide if a worker is an exempt or a non-exempt worker. A few others exist and can be found on the US Department of Labor Fact Sheet

These are: Executive:

- The employee's primary duty must be managing the church, or managing a customarily recognized department or subdivision of the church;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement,

promotion or any other change of status of other employees must be given particular weight.

Administrative (all categories including salary must be met):

- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Which means generally that the employees are not solely performing the duties of an administrative assistant, bookkeeper, or secretary.

Professional:

To qualify for the **learned professional** employee exemption, all of the following tests must be met (plus the salary test):

- The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment (for example, attorney, physician, clergy person);
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Those generally classified as blue-collar workers, such as janitors and maintenance workers are non-exempt.