



FAIR LABOR STANDARDS ACT: EXEMPT EMPLOYEE SALARY DEDUCTIONS

The Fair Labor Standards Act (FLSA) requires that most covered employees receive overtime pay at time and one-half their regular rate of pay for all hours worked in excess of 40 per week. However, employees working in executive, administrative and professional positions are exempt from these overtime pay requirements.

To qualify for the exemption, employees must meet certain job duty tests and be paid on a "salary basis." Being paid on a "salary basis" means employees receive a predetermined amount of compensation that cannot be reduced because of variations in the quality or quantity of work. Subject to certain exceptions, exempt employees should receive their full salary for any week in which they work, regardless of the number of days or hours worked. For example, deductions from pay are permissible for exempt employees who are:

- absent from work one or more days for personal reasons other than sickness or disability;
- absent from work one or more days due to sickness or disability if the deduction is made under a plan, policy or practice of providing compensation for salary lost due to illness;
- paid for jury duty or military pay;
- penalized for infractions of safety rules of major significance;
- suspended without pay for one or more full days for violating workplace rules;

Also, employees do not lose the exemption if their pay is reduced for absences of less than one day and they do not use accrued leave because:

- permission for its use has not been sought or has been sought and denied;
- accrued leave has been exhausted; or
- they choose to use leave without pay.

It is the policy of the State to prohibit improper deductions from the salaries of FLSA exempt employees. Employees who believe such improper deductions have been made may contact their agency Human Resources Office, or utilize the applicable Merit Rule or collective bargaining agreement dispute resolution procedure.

If you have any questions, please contact OMB/HRM at (302) 739-4195 or (302) 577-8977.