

**Exempt Employees Pay Increasing to New Minimum Threshold
Frequently Asked Questions (FAQ)**

Q: What is the Fair Labor Standards Act (FLSA)?

A: The Fair Labor Standards Act (FLSA) is a federal law that is administered by the U.S. Department of Labor (DOL) which is intended to protect workers against certain unfair pay practices of work regulations. FLSA establishes exemption status, minimum wage, overtime pay, recordkeeping, and child labor laws. Employees are either “exempt” or “non-exempt” from FLSA regulations. This designation indicates eligibility for overtime pay when overtime is worked. FLSA requires employers to pay employees overtime pay (one and one-half times the employee’s regular rate of pay) for all hours worked over 40 in a workweek unless the employee is “exempt” from overtime as defined in the regulations.

Q: How is the FLSA exemption status (i.e., non-exempt or exempt) determined for my job?

A: The DOL has established exemptions (i.e., exempt from overtime) for employees who meet certain tests regarding their job duties, being paid on a salary basis and minimum salary threshold.

Q: What are the FLSA exemption tests that must be met for a job to be classified as exempt?

A: To be classified as exempt, a job must meet all three (3) of the following FLSA exemption tests:

- Must be paid on a salary basis (not subject to a reduction in hours worked)
- Salary must meet the new minimum threshold of \$35,568 annually (\$684/week)
Note: the salary level test doesn’t apply to certain groups of jobs
- Primary duty must meet one of the FLSA exemption tests

Q: Was there a recent change to the FLSA exemption tests?

A: The DOL released a final rule on September 24, 2019 which raises the minimum salary threshold from \$23,660 annually (\$455/week) to \$35,568 annually (\$684/week). There are no changes to the salary basis or duties tests.

Q: Why did the DOL change the minimum salary threshold?

A: The DOL made the change to the regulations in an effort to extend overtime protection to more workers and “to help build real, lasting economic security for more hardworking Americans.” A change to the regulations has not been made since 2004.

Q: When is this change effective?

A: The final rule goes into effect on January 1, 2020. Due to the University’s pay periods, the change will be effective on the pay period that begins on December 29, 2019 (paycheck date of January 24, 2020).

Q: How does this change affect me?

A: Your job was identified as one that meets the FLSA exemption tests for salary basis and the duties test as described in the question above. Accordingly, since your annual salary is below the new minimum threshold, you will receive an increase to raise your annual salary to the new minimum threshold.

Q: If I am not a full time employee, is the minimum salary threshold prorated?

A: No, the FLSA requirements do not allow the minimum salary threshold to be prorated. Employees must earn the minimum salary threshold in order to be exempt from the FLSA requirements, regardless of how many days or hours they work per week.

Q: Are grant-funded positions impacted by the rules change?

A: Yes, funding source does not affect the exemption status.

Q: Are teaching faculty and lecturers impacted by the rules change?

A: Teachers are exempt under FLSA regulations, regardless of their annual/weekly salary, if their primary duty is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge. The University's faculty and lecturers who meet the primary duty requirement qualify as exempt under the teaching exemption and are not affected by the changes.

Q: I am paid a salary and my job title is manager. Am I exempt from overtime pay?

A: Job titles do not determine exempt status, and the fact that an employee is paid on a salary basis does not alone provide sufficient grounds to exempt the employee from the FLSA's minimum wage and overtime regulations. For an exemption to apply, an employee's specific job duties and salary must meet all of the applicable requirements provided in the DOL's regulations.

Q: Can I or my department opt out of the FLSA changes if we want to handle things differently?

A: No, these changes are federal law that apply to all U.S. employees.

Q: If I have a question not covered in this FAQ document, who do I contact?

A: You should first contact your leader as they may be able to answer your question. If your leader is not able to answer your question, you can send your question to totalrewards@wichita.edu.