Regular Rate vs. Overtime
An Attendance on Demand Primer

Summary

Although commonly referred to as "time and a half," the formula for calculating overtime is not that simple. This primer explores overtime calculations by examining what the Fair Labor Standards Act (FLSA) defines as a worker's "regular rate," how to calculate the "weighted average rate" if an employee works at more than one regular rate, how to figure a regular rate for salaried or commissioned employees, who is exempt from overtime and how a time and attendance system can automate these calculations to ensure accuracy.

What Is Regular Rate?

Regular rate refers to an employee's hourly rate of pay and cannot be less than minimum wage. According to the Fair Labor Standards Act (FLSA), an employee receives a regular rate of pay for up to 40 hours in a standard workweek. The FLSA defines a workweek as a fixed, regularly recurring period of seven consecutive 24-hour periods, but it does not need to correspond with the calendar week. A workweek can begin on any day at any time but must be consistent from week to week. There is no limit on the number of hours an employee can work in a single workweek.

Figure 1. Calculating Overtime Rates

Include:
- Night shift differentials
- Pay premiums for hazardous work
- Incentive pay
- Lump sum premiums paid without regard to number of hours worked

Exclude:
- Rewards for service not measure by an employee's output (e.g., holiday gifts)
- Payments for work not performed (e.g., vacation, holidays, sick leave)
- Certain bonus payments (e.g., profit-sharing)
- Contributions to head and retirement plans
- Daily or weekly premiums (for working in excess of 8 hours/day or 40 hours/week)
- Saturday, Sunday or holiday premiums

Information provided by Frost Brown Todd LLC.

What Is Overtime?

Once an employee has worked 40 hours in a given workweek, the employee has entered overtime, which requires employers to pay an overtime rate for all hours worked in excess of 40.

An overtime rate is roughly calculated as 1.5 times an employee's regular rate (often referred to as "time and a half"). However, an employee's overtime rate calculation must include the total compensation the employee receives for employment except certain payments considered exempt by FLSA. (See Figure 1.)

When an employee works for an employer at two or more regular rates of pay (for example, an employee that works part-time as a landscaper and part-time at the nursery's retail center), the employee's overtime rate must be based on the weighted average of his or her regular rates. This is calculated by adding together the week's total earnings, and then dividing it by total number of hours worked.

Regular Rate Weighted Average =

Total weekly earnings at all rates / Total number of hours worked at all jobs

If employees are compensated on salary, commission or another basis, an hourly rate must be calculated by dividing total pay for employment for the week divided by total hours worked for the week. If employees receive "non-cash payments" (including goods or facilities), FLSA requires employers to include the reasonable cost or fair value of the goods or facilities when calculating the weighted average of the employee's regular rate.

Overtime Exemptions

Certain employees are exempt from overtime and minimum wage requirements based on weekly salary earnings (they must be paid at least $455 per week) and specific job duties. Typical professional exemptions are outlined in Figure 2.

How a Time and Attendance System Can Help

Manually calculating regular rates, weighted averages and overtime rates of pay can be complicated and error-prone. A time and attendance system is an ideal way to automate these types of calculations, reducing errors and ensuring compliance. Specifically, a time and attendance system can help:

- *Calculate blended rates.* Instead of relying on a calculator or mental math to figure blended rates for overtime, let your time and attendance system do the work for you. Your system can be configured to automatically and accurately calculate blended rates for employees, regardless of hours worked or various pay rates.

- *Correctly exempt workers from overtime pay.* Although your time and attendance system cannot make an overtime exemption decision for you, it will help you track and audit your exemptions. For instance, if you have an IT group that meets the computer employee exemption criteria, you mark all workers in the group as exempt to avoid paying unnecessary overtime.

- *Accurately track hours worked to know when overtime is reached.* The key to proactively managing overtime is knowing when employees are approaching their 40-hour limit. The custom reporting feature on your time and attendance system allows you to run reports on hours worked by groups or departments. Keep tabs on overtime during the current pay period or compare current costs to historic overtime trends.

- *Record and archive payroll info in the event of a wage-and-hour audit or alleged infractions.* Because payroll and time and attendance information are inextricable, it's important to systematically archive pay information in the event of an audit or infraction allegation. Web-based time and attendance systems will act as a time capsule, storing your pay period information and required employee information. Custom reporting makes it easy to pull the information you need when you need it.

Figure 2. Professional Exemptions from Overtime Pay

Employee	Job Duties	Salary or Pay
Executive	Primary duty: Manages enterprise, department or subdivision Regularly directs at least 2+ full-time employees (or equivalent) Has the authority to hire/fire or recommend hiring, firing or promoting other employees	Not less than $455/week
Administrative	Primary duty: Performs office/non-manual work related to management or general business operations of employer or employer's customers, and exercises discretion and independent judgment on significant matters	Not less than $455/week
Learned Professional	Primary duty: Performs predominantly intellectual work requiring advance knowledge and includes consistent exercise of discretion and judgment Advanced knowledge must involve a field of science or learning and must be acquired by prolonged specialized instruction	Not less than $455/week
Creative Professional	Primary duty: Performs work requiring invention, imagination, originality or talent in a recognized artistic or creative field	Not less than $455/week
Computer Employee	Primary duty: (1) Applies systems analysis techniques and procedures including determining hardware, software or functional system specifications; (2) Designs, develops, documents, analyzes, creates, tests or modifies computer systems or programs based on system design specifications; (3) Designs, documents, tests, creates or modifies computer programs related to machine operating systems; (4) Or a combination of the above	Not less than $455/week (or $27.63/hour)
Field Sales Representative	Primary duty: Selling or obtaining orders or contracts for services for the use of facilities paid by the customer Must be regularly engaged outside of the employer's place of business	No requirement
Highly Compensated Employee	Primary duty: Regularly perform at least one duty of exempt executive, administrative or professional employee mentioned above Perform office or non-manual work	$100,000 in total annual compensation

Information provided by Frost Brown Todd LLC.

Conclusion

Understanding how to correctly calculate an employee's regular rate ensures the accuracy of overtime pay. However, for long-term accuracy, your time and attendance system serves as a valuable tool. From automating regular and overtime pay calculations and tracking overtime exemptions to managing overtime hours and archiving pay records, your time and attendance system is vital to helping you effectively manage your workforce budget.

About Attendance on Demand, Inc.

Attendance on Demand supports the labor management needs of thousands of companies and more than a half million employees across North America. Launched in 2006, Attendance on Demand is a rapidly deployed, cloud-based solution that minimizes a company's risk and technology investment while providing advanced features for securely managing labor data—calculating pay rules, scheduling employees, budgeting labor, and automating recordkeeping for labor law compliance. With standard uptime over the industry average of 99.995% and above average customer retention rates, Attendance on Demand removes the worry of maintaining expensive infrastructure. An extensive North American distribution network helps organizations use Attendance on Demand to reduce labor expenses and improve decision making.

References

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