

# FLSA FAQ

## Fair Labor Standards Act (FLSA)

### Overview

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) administers and enforces the FLSA with respect to private employment, state and local government employment, and federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority.

- **FLSA Minimum Wage:** The federal minimum wage is \$7.25 per hour effective July 24, 2009. Many states also have minimum wage laws. In cases where an employee is subject to both state and federal minimum wage laws, the employee is entitled to the higher minimum wage.
- **FLSA Overtime:** Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay. The FLSA does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days.  
  
Exempt employees is a broad categories of “white collar” jobs from minimum wage and overtime requirements if they meet certain tests regarding job duties and responsibilities and are paid a certain minimum salary. These Exempt employees are commonly known as executive, administrative, and professional employees.  
  
Exemptions also include outside sale personnel, certain specialized computer personnel, certain highly compensated employees (HCE’s), certain retail sales employees, and employees covered by the Motor Carrier Act (MCA).  
  
Employers should periodically review the duties of exempt employees to ensure that they still qualify for exempt status, especially if undergone restructuring or downsizing.
- **Hours Worked:** Hours worked ordinarily include all the time during which an employee is required to be on the employer’s premises, on duty, or at a prescribed workplace. The FLSA does not limit the number of hours in a day or days in a week an employee may be required/scheduled to work if the employee is at least 16 years or older.
- **Recordkeeping:** Employers must display an official poster outlining the requirements of the FLSA. Employers must also keep records including certain identifying information about the employee and data about the hours worked and the wages earned.
- **Child Labor:** These provisions are designed to protect the educational opportunities of minors under 16 and prohibit their employment in hazardous occupations and under conditions detrimental to their health or well-being.

### Who is Covered?

All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person, are covered by the FLSA. A covered enterprise is the related activities performed through unified operation or common control by any person or persons for a common business purpose and —

1. whose annual gross volume of sales made, or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or
2. is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill who reside on the premises; a school for mentally or physically disabled or gifted children; a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or is an activity of a public agency.

Any enterprise that was covered by the FLSA on March 31, 1990, and that ceased to be covered because of the revised \$500,000 test, continues to be subject to the overtime pay, child labor and recordkeeping provisions of the FLSA.

Employees of firms which are not covered enterprises under the FLSA still may be subject to its minimum wage, overtime pay, recordkeeping, and child labor provisions if they are individually engaged in interstate commerce or in the production of goods for interstate commerce, or in any closely related process or occupation directly essential to such production.

Such employees include those who: work in communications or transportation; regularly use the mails, telephones, or telegraph for interstate communication, or keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross State lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or in the production of goods for interstate commerce.

For more information on the Fair Labor Standards Act (FLSA), visit [www.dol.gov/whd/flsa/faq.htm](http://www.dol.gov/whd/flsa/faq.htm)