



The Congregational Treasurer e-Newsletter Lower Susquehanna Synod Treasurer's Office

New Overtime Rules; What This Means for Your Church

By Raul Rivera for StartCHURCH

For many ministers, the idea of a 40-hour work week is just that, an idea. In reality, it is not uncommon for ministers to work well over 40 hours, even if they are "part-time". But have you ever thought about how overtime regulations relate to ministers? What about other church employees?

The Department of Labor (DOL) recently released its new overtime regulations. These are set to go into effect later this year. The new overtime regulations contain no specific exemption for employees of churches or ministries.

What does this mean for churches? How will this affect your church budget? And, what can your church do to "lessen the impact" of these new overtime regulations?

These are common questions many pastors and church leaders have been asking. So, in this post I will spend some time answering these questions. But first, let us look at the previous overtime regulations. This will help us to have a foundation of knowledge upon which to build.

Previous overtime regulations

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record keeping, and youth employment standards that affect most employees in the private and public sector. It is the Department of Labor (DOL) that has the authority to define the rules, set forth in the FLSA, through regulation.

In general, workers who are paid hourly or earn below a certain amount are considered to be protected by overtime regulations. Employees protected by overtime regulations are also referred to as "nonexempt" workers who are entitled to overtime pay at a rate of one and a half times the regular rate of pay after 40 hours of work in a work week.

Furthermore, employees who are not protected by the overtime regulations, or "exempt" workers, are those who earn more than the regulated income threshold and are considered to be "executive, administrative, and professional employees." These employees are often working in what would be commonly considered "white collar" jobs.

In 2004, the Department of Labor increased the income threshold for overtime protection for the first time since 1975. The DOL increased the threshold from \$250 per week (\$13,000 per year) to \$455 per week (\$23,660 per year). In essence, this means that those who do not work in a "white collar" job and earn less than \$455 per week are entitled to overtime protections.

New overtime regulations

In 2014, President Obama signed a Presidential Memorandum instructing the Secretary of Labor "to propose revisions to modernize and streamline the existing overtime regulations." The Presidential Memorandum went as far as to state the "regulations regarding exemptions from the [Fair Labor Standard] Act's overtime requirement, particularly for executive, administrative, and professional employees...have not kept up with our modern economy."

On May 18, 2016, President Obama and Secretary Perez announced the DOL's final rule updating overtime regulations, which will extend overtime pay protections to over 4 million workers within the first year of implementation.

The new overtime regulations include the following updates:

- Employees who earn less than \$913 per week (or \$47,476 annually) will now generally be eligible for overtime pay.
- It establishes automatic updates to the salary threshold every three years.
- It does allow employers to include bonuses and commissions to satisfy up to 10% of the new salary level.
- It does not make any changes to the "duties test" to qualify for the executive, administrative, and professional employees exemption

The new overtime regulations are set to become effective December 1, 2016.

So, what does this mean for churches? How might these new overtime regulations impact your church's finances and budget? Let us take a look.

What does this mean for churches?

As employers, churches generally have two classifications of employees: 1. ministerial employees and, 2. non-ministerial employees. Since the new overtime regulations impact both types of employees differently, we will take a look at both to better understand what this means for your church.

Ministers and overtime

Working more than 40-hours in a week is nothing new for ministers. It is almost as though a 40 hour work week comes with the territory. So, how do the new overtime regulations affect ministers?

Well, ministers, in general, are not covered under FLSA employee regulations and guidelines. There is precedent from several federal courts that have ruled ministers are exempt from FLSA regulations due to what is known as ministerial exception. In short, the ministerial exception is a legal doctrine that "shields" ministers from certain employment laws and FLSA regulations.

Therefore, the new overtime regulations have no bearing on the hours that ministers work.

Non-ministerial employees and overtime

In essence, there are two ways in which an employee can be covered under the overtime laws: "enterprise coverage" and "individual coverage".

As an employer, most churches will not be subject to the overtime regulations under the enterprise coverage unless they happen to operate a daycare or school. Even if your church operates a daycare or school, there are still certain requirements that must be met in order for enterprise coverage to apply.

Many, if not most, church employees will meet the individual coverage requirements. The individual coverage applies to employees whose work regularly involves them in commerce between states (interstate commerce).

Now perhaps you are thinking, "My church only operates in one state, so I don't think our employees would meet the individual coverage requirements." Although it may seem that way, employees engaged in "interstate commerce" include those who regularly make telephone calls to persons located in other states, ship materials to other states, handle records of interstate transactions, and travel to other states for work purposes. Furthermore, those who send emails to others in another state may even be included.

The important thing is not to assume that your employees do not meet the coverage requirements.

Let us look at an example to help put things into perspective.

Example:

A church administrator for ABC Church usually works at least 45 hours per week and earns an annual salary of \$30,000. Under the previous overtime regulations, the church administrator for ABC Church is exempt from the overtime rules. However, beginning on December 1, 2016 the church administrator's annual salary of \$30,000 will no longer be above the salary threshold and thus no longer exempt from overtime regulations. Therefore, if the church administrator continues to work 45 hours per week when the new overtime regulations go into effect, then, over the course of a year, the church administrator will earn an additional \$5,623.80 from the overtime hours worked.

Now, this is just an example and maybe the additional \$5,623.80 per year does not seem like much. But for some churches, the additional fifty-six hundred dollars may not be readily available. In addition, keep in mind that the salary threshold now applies to all employees who earn less than \$913 weekly or \$47,476 annually.

So, what can your church do to prepare for the new overtime regulations? We will take a look at that next.

3 ways to address new overtime regulations

While the new overtime regulations can be good for some employees, it has the potential to be a challenge for some employers. Below are 3 ways your church can address and prepare for the new overtime regulations:

1. **Limit employees' hours to 40 per week:** Implement a strict policy stating that overtime hours for non-ministerial employees must first be approved.
2. **Raise the employees' salaries above the new salary threshold:** In some instances it may be more reasonable and affordable to simply raise one's salary above the new salary threshold than to pay overtime.
3. **Pay time-and-a-half for overtime work:** Most churches will have a limited number of employees who have the possibility of working overtime. Furthermore, for those employees who do have the possibility of working overtime, it may be few and far between at that. For these situations, this will most likely be the most affordable way to comply.
- 4.

Where to go from here

Labor laws in general can be burdensome and tough to fully understand. Then, when you look at how labor laws relate to churches, you begin to get into a completely different level of complexity.

Although churches are generally exempt from FLSA regulations, as we just saw, there are exceptions about which you should be familiar. We love providing helpful information to pastors and church leaders, but if you have specific questions pertaining to your church and the new overtime regulations, you should seek legal advice from a qualified attorney.

Bruce Seagrist, synod treasurer
717-652-1852, ext. 101

Linda Lubold, executive assistant
717-652-1852, ext. 108

Cathy Paul, secretary
717-652-1852, ext. 107

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