How to Calculate How Much Overtime an Employee Is Owed

Under the Fair Labor Standards Act (FLSA), a nonexempt employee typically is owed overtime when they work more than 40 hours in a workweek. An employer can follow these steps to determine how much overtime an employee is owed in most situations, except for unusual circumstances such as when the employee is paid:

- Under a fluctuating workweek system;
- Basic rates of pay by agreement;
- Guaranteed compensation under a "Belo plan";
- By piece rates; or
- Under an alternative work period that is longer than 40 hours, such as 7(k) plans for public safety employees, 1040/2080 plans for unionized employees or Eight and 80 plans for certain nonexempt medical care providers.

This How To also does not cover state overtime variations, which may be more stringent than the federal standard.

Step 1: Determine the Workweek

The *workweek* is the basis of all overtime calculations. To calculate how much overtime an employee is owed, an employer must be clear about what time span the workweek covers. Most employers follow the calendar week, from 12 a.m. on Sunday to 12 p.m. on Saturday, but the workweek can cover any fixed and regularly recurring period of 168 hours.

Step 2: Add Up the Total Number of Hours Worked

Once the workweek has been established, the employer must add up how many hours the employee worked during the workweek. If there is any question about which activities constitute *hours worked* under the FLSA, the employer should consult an attorney or simply err on the side of caution by counting the activities as hours worked anyway. It should be noted that all hours worked must be counted, even if the employer did not authorize the employee to work them.

Step 3: Add Up the Employee's Non-Overtime Compensation

The next step is to add up *all remuneration for employment* paid to the employee during the workweek. A few specific forms of payment -- such as gifts; holiday, vacation or sick pay; expense reimbursements; and discretionary bonuses - may be excluded. Everything else must be added up, including any hourly wages, salaries, commissions, tips, day rates, piece rates, nondiscretionary bonuses, on-call pay, commissions, deferred compensation, hourly pay or lump sum for additional work, shift differentials or show-up pay.

If a payment covers more than one workweek (for example, an annual bonus), that payment must be distributed among all the workweeks it was intended to cover and then factored in to the overtime calculations. If such payments cannot be anticipated ahead of time, the employer may retroactively recalculate overtime for past workweeks that the additional compensation covers.

When an employee is paid in part or in whole with board, lodging or other facilities, the reasonable cost of the goods or the fair value of the lodging (per workweek) must be included.

Step 4: Calculate the Regular Rate of Pay

The total compensation for the workweek (from Step 3) is divided by the total number of hours worked during the workweek (from Step 2) to calculate the employee's *regular rate of pay.*

Step 5: Calculate the Overtime Premium

The total compensation that was added up in Step 3 already includes all of the employee's non-overtime (also sometimes called "straight-time") earnings.

For example, if an employee worked 46 hours in a workweek and was paid an hourly wage of $10 an hour, then the $460 in straight-time wages already includes *one times* the employee's regular rate of pay for the six hours beyond 40.

Because an employee is owed *one and one-half times* their regular rate of pay for overtime, an employer needs only to add an additional *one-half* of the regular rate of pay for all overtime hours worked to the total straight-time compensation.

To calculate this overtime premium, the employer multiplies the employee's regular rate of pay by one-half and then multiplies that product by the number of hours worked beyond 40 in the workweek. To conclude the previous example, the regular rate of $10 is multiplied by one-half, for a product of $5. The $5 is then multiplied by the number of six hours worked beyond 40 in the workweek for an overtime premium of $30.

Step 6: Add the Overtime Premium to the Non-Overtime Compensation to Calculate the Employee's Total Pay

The overtime premium from Step 5 is added to the non-overtime compensation from Step 3 to determine the employee's total pay for the workweek. In the aforementioned example, the overtime premium of $30 is added to the non-overtime compensation of $460 for a total of $490.