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By Angela Romersi, CPA

**TAX DEADLINES ARE CHANGING: BE READY!**

*The due dates of several reporting forms have been expedited beginning with tax year 2016. To avoid exposure to tax penalties and unnecessary extension processing fees, **we recommend that all partnership and s corporation clients submit their tax information to our office as early as possible after the year end.***

Entity	Form	Now Due	Previously Due	Comments
Partnerships – Calendar Year	1065	<b>March 15<sup>th</sup></b>	April 15 <sup>th</sup>	30 days <b>earlier</b>
Extended Due Date				
S Corporations – Calendar Year	1120S			- No change – March 15 <sup>th</sup> - - No change – Sept. 15 <sup>th</sup> -
Extended Due Date				
C Corporations – Calendar Year	1120	April 15 <sup>th</sup>	March 15 <sup>th</sup>	30 days <b>later</b> - No change – Sept. 15 <sup>th</sup> -
Extended Due Date				
Individuals	1040			- No change – April 15 <sup>th</sup> - - No change – Oct. 15 <sup>th</sup> -
Extended Due Date				
Trusts/Estates – Calendar Year	1041	Sept. 30 <sup>th</sup>	Sept. 15 <sup>th</sup>	- No change – April 15 <sup>th</sup> - 15 days <b>later</b>
Extended Due Date				
Foreign Bank Account Reports	114	<b>April 15<sup>th</sup></b>	June 30 <sup>th</sup>	77 days <b>earlier</b>
Extended Due Date				

The table above summarizes the changes to the most common forms. For a more complete list please visit the AICPA website:

[www.aicpa.org/advocacy/tax/taxlegislationpolicy/downloadabledocuments/due-dates-summary-chart.pdf](http://www.aicpa.org/advocacy/tax/taxlegislationpolicy/downloadabledocuments/due-dates-summary-chart.pdf)

The deadline changes were enacted by Congress through a revenue provision of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.

# **PHISHING AND SCAMS:** **HOW TO PROTECT** **YOURSELF**

## **Telephone Communication**

The IRS will never call to demand immediate payment or make threatening phone calls. Many scams involve threats to contact law enforcement. Practiced scam artists will often have obtained personal information about you such as your name and address as well as the names and addresses of family members in order to make their claims seem genuine.

**If you are unsure of the validity of a phone call you receive, do one of the following before providing any information:**

- Take down the individual's name, badge number, and phone number, then hang up and call the IRS at 1-800-366-4484 to verify whether the caller is an IRS employee with a legitimate need to contact you
- Contact our office for assistance

According to the IRS consumer alert issued August 28, 2014, the following are five indicators of a scam. The IRS will never:

1. Call to demand immediate payment, nor will the IRS call about taxes owed without first having mailed you a bill
2. Demand that taxes be paid without first giving you the opportunity to question or appeal the amount due
3. Require that you use a specific payment method, such as a prepaid debit card
4. Ask for credit or debit card numbers over the phone
5. Threaten to bring in local police or other law-enforcement groups to have you arrested for not paying your taxes

## **Other Methods**

The IRS will **not** contact taxpayers via e-mail, text, or social media. The IRS will not request PIN numbers, passwords, or financial account information through these channels. The IRS requests that you report email scams to [phishing@irs.gov](mailto:phishing@irs.gov).

## **More Information**

For more information and a listing of current phishing schemes, please visit [www.irs.gov](http://www.irs.gov) and search keyword "scam."

# **UPDATE FOR EMPLOYERS:** **REGULATION CHANGES**

The FLSA has issued revised Final Overtime Regulations which are **effective December 1, 2016**. Changes have been made to the salary level test and exemption categories which govern whether or not an employee qualifies for overtime pay. **If you are an employer, we strongly recommend that you contact our office to discuss how the new regulations may apply to you. For more information, please refer to the enclosed pamphlet issued by ADP or our most recent issue of Client Line.**



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# FLSA Final Overtime Regulations Key Facts and Figures

## Salary Level Test

- (1) Effective December 1, 2016, \$913 per week/\$47,476 annually, which represents the 40th percentile of full-time salaried workers in the lowest-wage Census Region (currently the South); \$767 (84% of standard salary level) for American Samoa.
- (2) Motion Picture Producing Industry:  
The requirement that the employee be paid on a “salary basis” does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$1,397 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt, and who is employed at a base rate of at least \$1,397 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:
  - (a) the employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least the minimum weekly amount if 6 days were worked; or
  - (b) the employee is in a job category having the minimum weekly base rate and the daily base rate is at least one-sixth of such weekly base rate.

## Bonuses

Up to 10% of standard salary level for executive, administrative, and professional exempt employees can come from non-discretionary bonuses, incentive payments, and commissions, paid at least quarterly. For executive, administrative and professional exempt employees. HCE exemption always allowed for bonus to satisfy a portion as long as employees were paid a weekly minimum of \$455 (or \$913 as of December 1, 2016).

## Automatic Salary Adjustment

Beginning on January 1, 2020, and every three years thereafter, the amount required to be paid to an exempt employee on a salary or fee basis will be updated to equal the 40th percentile of weekly earnings of full-time nonhourly workers in the lowest-wage Census Region in the second quarter of the year preceding the update as published by the Bureau of Labor Statistics.

**Highly compensated employee.** Beginning on January 1, 2020, and every three years thereafter, updated to correspond to the annualized earnings amount of the 90th percentile of full-time nonhourly workers nationally in the second quarter of the year preceding the update as published by the Bureau of Labor Statistics.

**American Samoa.** Beginning on January 1, 2020, and every three years thereafter, the amount will be updated to correspond to 84% of exempt employee salary amount rounded to the nearest multiple of \$1.00.

**Motion picture producing industry.** Beginning on January 1, 2020, and every three years thereafter, the amount will be updated from the previously applicable base rate, adjusted by the same percentage as the updated exempt employee salary, rounded to the nearest multiple of \$1.00.

## Professional Exemption

A professional employee is exempt if the salary level and salary basis tests are met. Professional employees include:

**Learned professionals.** For learned professionals, the standard test provides that employees qualify for exemption as a learned professional if they have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. Learned professional, creative professional, etc... must also be compensated on a salary or fee basis.

This primary duty test includes three elements:

- (1) The employee must perform work requiring advanced knowledge;
- (2) The advanced knowledge must be in a field of science or learning; and
- (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

**Creative professionals.** The creative professional exemption applies to any employee with the primary duty of “performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.” This includes such fields as:

- music,
- writing,
- acting and
- the graphic arts.

**Teachers.** Any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed as a teacher in an educational institution may qualify as a teaching professional.

Under the regulations, possession of a teacher’s certificate provides a clear means of identifying someone as being within the exemption as a teaching professional. Without certification, someone employed as a teacher may still be considered for the exemption. Neither the definition of professional employees, nor the salary requirements applies to this group.

**Law or medicine.** Any employee who holds a valid license or certificate to practice law or medicine, and is engaged in practice in that field, qualifies for the professional employee exemption. Neither the definition of professional employees, nor the salary requirements apply to these groups.

The term “physicians” includes:

- medical doctors
- osteopathic physicians
- podiatrists
- dentists
- optometrists

**Outside sales.** A separate exemption exists for any employee employed as an outside salesman. Outside sales employees would have to be customarily and regularly engaged away from the employer’s places of business making sales or obtaining orders or contracts for services or the use of facilities. “Inside sales” employees are not within the scope of the exemption for “outside sales” employees.

**Computer occupations.** Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals. Because job titles vary widely and change quickly in the computer industry, job titles do not determine whether the exemption applies. Rather, exempt status is determined by the employee’s primary duty.

## Executive Exemption

An executive employee is exempt if the salary level and salary basis tests are met. An executive is defined as an employee:

- (1) whose primary duty is managing the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;
- (2) who customarily and regularly directs the work of two or more other employees; and
- (3) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

## Minimum Guarantee Plus Extras

- (1) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis.

**Example:** If the current weekly salary level is \$913, an exempt employee guaranteed at least \$913 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least \$913 each week paid on a salary basis.

Similarly, the exemption is not lost if an exempt employee who is guaranteed at least \$913 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

- (2) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if:
  - (a) the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and
  - (b) a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek.

**Example.** If the weekly salary level is \$913, an exempt employee guaranteed compensation of at least \$1,000 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid \$300 per shift without violating the salary basis requirement.

The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary per week that exceeds the current salary level who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

## Highly Compensated Employee Exemption

An employee is deemed an exempt, highly compensated employee if:

- (a) their salary is \$134,004 annually (effective December 1, 2016), which represents the 90th percentile of full-time salaried workers nationally.
- (b) employee customarily and regularly performs one or more of the exempt duties or responsibilities of an executive, administrative, or professional employee.
- (c) If an employee's total annual compensation does not total at least the minimum amount established for highly compensated employees by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level.

**Example:** Employee A earns \$100,000 in base salary. Employer anticipates based on past sales employee A will earn \$35,000 in commission. Employee A only earns only \$10,000. The rule allows employer to pay employee A and additional \$24,004, within one month of the end of the 52-week period. The amount counts toward the 52-week period year, not the year that it was paid in.

## Administrative Exemption

An administrative employee is exempt if the salary level and salary basis tests are met. The standard duties of an administrative employee must include the performance of office or non-manual work directly related to the management or general business operations of the employer or its customers and the exercise of discretion and independent judgment with respect to matters of significance.

**Educational Establishments.** A separate exemption test is used for employees in education. Their primary duties are performing administrative functions directly related to academic instruction in an academic setting. Academic administrative functions include operations directly in the field of education; but jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

- (1) the superintendent or other head of a school system, and any assistants responsible for administration of the curriculum, student achievement and teaching program;
- (2) the principal and any vice-principals responsible for the operation of an elementary or secondary school;
- (3) department heads in institutions of higher education;
- (4) academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students about degree requirements; and
- (5) other employees with similar responsibilities.

## Resources

U.S. Department of Labor, Wage and Hour Division, Final Rule: Overtime  
<https://www.dol.gov/whd/overtime/final2016/>

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