



Salaried Employee - Less than 40 Hour Work Week

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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Computing Regular Rate of Pay - Salaried Employee Working a Fixed Workweek of Less Than 40 Hours

The regular rate for an employee working a fixed workweek of less than 40 hours can be determined in one of two ways depending on the understanding between the employer and the employee. The conventional method is to divide the fixed weekly wage and other forms of compensation by the number of hours in the workweek. 29 C.F.R. § 778.114.

Example:

An employee works a 35-hour workweek for a salary of \$300. Under the act, the employee's maximum straight-time workweek is 40 hours. The employee's regular rate is \$8.57 per hour (\$300 divided by 35 hours). If the employee works overtime, he is entitled to \$8.57 per hour for hours 36 through 40 and \$12.86 ($\$8.57 \times 1\frac{1}{2}$) for each additional hour over 40.

The other method of calculating the regular rate for workweeks of less than 40 hours depends on an agreement between the employer and the employee that the salary paid an employee represents compensation for all hours worked up to 40 per week. Then, the employee can work any amount of time up to 40 hours per week without additional compensation. The rate of pay also would be based upon a 40-hour work week and not the lesser workweek actually labored.

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