



# The "Total" Advisor

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April 2014 Issue

## Eligibility Rules for Overtime Pay Undergoing Review

The U.S. Department of Labor (DOL) will propose changes to the federal rules regarding who qualifies for overtime pay, as directed in a recent [presidential memorandum](#).

The federal [overtime requirements](#) are contained in the Fair Labor Standards Act (FLSA). Unless exempt, employees covered by the FLSA must receive overtime pay for hours worked **over 40 in a workweek** at a rate **not less than time and one-half** their regular rates of pay.

A key focus of the agency's review will be the FLSA exemption from minimum wage and overtime pay protections for bona fide [executive, administrative, and professional employees](#). To qualify for this exemption under the current rules, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Among other potential updates, the DOL is expected to propose changes to this salary threshold to adjust for inflation.

Keep in mind that **when both the FLSA and a state law apply, an employee is entitled to the most favorable provisions of each law**. Be sure to check your state's wage and hour laws for requirements related to minimum wage, overtime, and exemptions. To learn more about the federal rules, visit our section on [Employee Pay](#).

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## Health Care Reform Highlights

Federal agencies continue to issue new rules and guidance related to a number of requirements under the Affordable Care Act (ACA). The latest updates include the following:

### **Delay Extended for Small Businesses to Keep Existing Health Coverage**

A previously announced transitional policy, which allows some small businesses to renew group coverage that would otherwise be terminated or cancelled, [has been extended for an additional two years](#)--to policy years beginning on or before October 1, 2016. **Not all states and insurance companies will permit coverage to renew.**



Policies subject to the transitional relief will not be considered to be out of compliance with some of the ACA's key provisions that were originally scheduled to take effect in 2014, including the requirement to cover [essential health benefits](#) and limit annual cost sharing under the plan. Insurers that renew coverage under the extended transitional policy are required to provide standard notices to affected businesses for each policy year.

### **2015 Annual Cost Sharing Limits for Coverage of Essential Health Benefits**

The ACA requires yearly updates to the limits on annual out-of-pocket cost sharing for coverage of essential health benefits, applicable to non-grandfathered group health plans (except for policies subject to the transitional relief noted above).

The U.S. Department of Health and Human Services has updated the annual limits based on projections of average per enrollee health insurance premiums for employer-sponsored coverage. As a result:

- Annual out-of-pocket expenses may not exceed **\$6,600 for self-only coverage or \$13,200 for family coverage in 2015.**
- For small group plans, annual deductibles may not exceed **\$2,050 for self-only coverage or \$4,100 for family coverage in 2015.** (Certain small group plans [may exceed](#) the annual deductible limit if the plan cannot reasonably reach a given level of coverage, or metal tier, without exceeding the deductible limit.)

### **Final Rules on Information Reporting Requirements for Employers**

Two sets of final regulations provide guidance on, and simplify, the ACA information reporting requirements for employers. **The first employer information reports are due in 2016 (for the 2015 reporting year).**

[One set of rules](#) addresses minimum essential coverage reporting required for certain self-insuring employers. Another [set of rules](#) relates to the requirement that large employers (generally those with **50 or more full-time employees**, including full-time equivalents) report information to the IRS and to their employees about their compliance with the "[pay or play](#)" provisions and the health care coverage they have offered.

Note that an employer with **50 to 99 full-time employees** (including full-time equivalents) that wishes to qualify for transition relief from the "pay or play" requirements for 2015 must certify that it meets [certain eligibility conditions](#) on the information reporting form.

The latest ACA updates are featured in our [Health Care Reform](#) section.

## New Guidance for Employers Conducting Background Checks

When making personnel decisions, employers sometimes want to consider the backgrounds of applicants and employees--for example, an individual's work history, education, or criminal record. While additional facts may help an employer make a more informed decision, it is essential that employers comply with federal and state laws governing access to, and use of, background information.



To help employers comply with **federal law**, the U.S. Equal Employment Opportunity Commission and the Federal Trade Commission have co-published a [short guide](#) explaining how the federal nondiscrimination laws and the Fair Credit Reporting Act apply to employment background checks.

The guide emphasizes that employers need written permission from job applicants **before** getting background reports about them from companies in the business of compiling background information. It also reaffirms that it is illegal for employers [subject to federal nondiscrimination laws](#) to discriminate based on a person's race, color, national origin, sex (including pregnancy), religion, age (40 or older), disability, or genetic information when requesting or using background information for employment, regardless of where the information was obtained.

**Many states have laws which limit or prohibit an employer's use of background information for employment purposes**, so each employer should review the applicable laws for its state and consult with an employment law attorney to ensure full compliance. Our section on [Background Checks](#) provides additional compliance tips for employers related to federal law.

## 3 Tax Recordkeeping Tips for Employers

Keeping good records not only makes tax filing easier and faster, but it can also help you monitor the progress of your business, prepare your financial statements, and support items reported on your tax returns. Here are 3 simple tips from the [IRS](#) to help you get organized:



### 1. Save Certain Business Records

The following are some of the types of records you should keep:

- **Gross receipts** are the income you receive from your business. You should keep supporting documents that show the amounts and sources of your gross receipts.
- **Purchases** are the items you buy and resell to customers. Your supporting documents should show the amount paid and that the amount was for purchases.

- **Expenses** are the costs you incur (other than purchases) to carry on your business. Your supporting documents should show the amount paid and that the amount was for a business expense.
- **Assets** are the property, such as machinery and furniture, that you own and use in your business. You need records to compute the annual depreciation and the gain or loss when you sell the assets.

## 2. Keep Employment Tax Records

The following information should be available for IRS review:

- Your employer identification number;
- Amounts and dates of all wage, annuity, and pension payments;
- Amounts of tips reported;
- The fair market value of in-kind wages paid;
- Names, addresses, social security numbers, and occupations of employees and recipients;
- Any employee copies of Form W-2 that were returned to you as undeliverable;
- Dates of employment;
- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them;
- Copies of employees' and recipients' income tax withholding allowance certificates;
- Dates and amounts of tax deposits you made;
- Copies of returns filed;
- Records of allocated tips; and
- Records of fringe benefits provided, including substantiation.

## 3. Store and Organize Your Records

Business owners should generally **keep all employment-related tax records for at least 4 years** after the tax is due, or after the tax is paid, whichever is later. The length of time you should keep [other documents](#) depends on the action, expense, or event the document records.

The IRS doesn't require any special method to keep records, but it's a good idea to keep them organized and in one place. This will make it easier for you to prepare and file a complete and accurate return. You'll also be better able to respond if there are questions about your tax return after you file.

You can review our section on [Employee Records and Files](#) for information on other federal recordkeeping responsibilities for employers.

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