

The following terms must be clearly understood. In any given scenario, you could encounter all or some of the following terms, and it is important to understand the differences among them.

Regular Rate of Pay (also called Regular Pay): The amount paid to a taxpayer in a standard work week, which is usually 40 hours. This can be calculated in many ways. For instance, a taxpayer could make \$15 per hour, or the taxpayer might be paid a salary of \$600 per week, which is divided by 40 to obtain the regular rate of pay for that week. If taxpayers receive commissions or non-discretionary bonuses, those are generally added to the salary or hourly amount and then that figure is divided by 40 to get the rate on which overtime is based for a particular week. In such cases, the “regular rate of pay” may be different from week to week if the taxpayer receives different amounts of commission in different weeks.

Overtime (also called Overtime Pay): The amount paid to an employee who has worked over and above the regular work week. It consists of the employee’s **regular rate of pay** and the **overtime premium**. If a taxpayer’s regular rate of pay is \$20 per hour, and the taxpayer is paid time and a half for overtime, the overtime pay is \$30 per hour for the extra hours. Pay stubs or statements might list the overtime paid for the year.

Overtime Premium: The amount over and above a taxpayer’s regular rate of pay. If a taxpayer’s regular rate of pay is \$20 per hour, and the taxpayer is paid time and a half for overtime, the overtime premium would be \$10 per hour—the amount that exceeds the regular rate of pay of \$20 per hour. Pay stubs and statements might list the Overtime Premium for the year.

Qualified overtime: The amount of **overtime premium** that is required to be paid to the employee who is covered by the federal FLSA. If the employee is paid time and a half, the Overtime Premium and the Qualified Overtime should generally be the same. If a taxpayer is paid double time, only half of that premium is considered **Qualified Overtime** for this purpose.

Qualified overtime as measured by the Fair Labor Standards Act refers to pay received for hours worked exceeding 40 per week, and includes **only** the required premium above a taxpayer's regular rate of pay for those hours—specifically the “half” in “time and a half.”

Example 1: York works as a checker at a grocery store. He works 45 hours in a week. His regular rate of pay is \$10 per hour, and his regular work week is 40 hours. For those five extra hours per week that he works, he is paid time and a half or \$15 per hour. The amount of qualified overtime is the \$5 premium above his regular rate of pay for those extra hours, or \$25. In other words, the entire \$15 per hour for those five extra hours is not qualified overtime; only the amount that exceeds his regular rate of pay for those extra hours.

Example 2: Zoe's regular work week is 36 hours. If she works a 40 hour week, her company views those extra 4 hours as overtime. The federal FLSA does not, so she has no qualified overtime for purposes of this deduction.

Example 3: Some states define overtime differently. Arthur lives in California. He works ten hours on Mondays, Tuesdays, Wednesdays, and Thursdays. California law says he earns two hours of overtime per day. Federal law does not. For purposes of the deduction, he does not have qualified overtime because he has worked 40 hours in the week.

Example 4: Bertha is a care tech at the local hospital. Her regular rate of pay is \$20 per hour. Bertha works a holiday shift on Christmas Eve, for which she is paid 2.5 times her regular rate of pay (\$50 per hour). If Bertha did not work more than 40 hours in the week, there is no qualified overtime. And even if the holiday shift was in excess of her 40 hour week, for purposes of the overtime deduction, the deductible amount is still $0.5 \times$ her regular rate of pay that is recognized according to the federal FLSA.
 $0.5 \times \$20 = \10 per hour.

For tax year 2025, employees who are uncertain if they are covered by and not exempt from the federal FLSA should check with their employers. Assuming the taxpayer is covered by and not exempt from the federal FLSA, continue.

If an employer has voluntarily provided the amount of qualified overtime in Box 14 of the W-2, the employee may rely on this amount. Otherwise, assuming the employee's overtime pay is included on their W-2 (as part of wages in Box 1), then the employee may use one of the methods below to figure the appropriate amount of qualified overtime.

- If an employee has a statement of some sort that covers all pay for the year 2025, and it shows either the overtime paid for the year or the overtime premium paid for the year, divide appropriately based on the employee's overtime premium amount.

SAMPLE PAYSリップ:

Description	Dates	Earnings		Amount	YTD Hours	YTD Amount
		Hours	Rate			
Bonus - APP			0		0	200.00
Charter			0		3	72.18
Holiday			0		36	865.60
OT - Maintenance	12/08/2025 - 12/14/2025	1.1	12.39	13.63	3.1	38.41
Meal Money			0		0	150.00
Overtime	12/01/2025 - 12/14/2025	2.783333	12.39	34.49	30.05	372.35
Pay Card Per Diem			0		0	300.00
Regular	12/08/2025 - 12/14/2025	57.78333	24.78	1,431.881013	1013.633331	24,296.82
Retro Pay			0		0	155.75
Safety Non-Driving	12/08/2025 - 12/14/2025	2.25	24.78	55.76	77	1,817.61
OT - Safety and Tra	12/08/2025 - 12/14/2025	2.25	12.39	27.88	25.850001	320.30
Shuttle	12/08/2025 - 12/14/2025	1.1	24.78	27.26	1.1	27.26
Trainer	12/08/2025 - 12/14/2025	23.85	24.78	591.01	393.250003	9,589.17
Washing			0		2.6	64.43
Earnings				2,181.91		38,269.88

- If an employee's overtime might be underestimated because she was paid a non-discretionary bonus or commission, adjustments may need to be made. (Guidance does not define how to make those adjustments.) A non-discretionary bonus is a bonus paid for having met goals, quotas, or other performance targets; non-discretionary bonuses must be considered when figuring an employee's regular

rate of pay and can affect the employee's overtime compensation. Discretionary bonuses are bonuses given at the employer's discretion with no conditions attached; they do not factor into an employee's regular rate of pay and do not impact on an employee's overtime compensation.

- Absent a statement that indicates either an employee's overtime paid for the year or an employee's overtime premium paid for a year, the employee may need to obtain information from an employer, including an approximation of the employee's regular rate of pay and hours of service above 40 per week. This information could be used to estimate the amount of qualified overtime for 2025, but employees should keep detailed records of how the figures were reached.

We have created a document the employee can use to get the necessary information from their employer.

Tax year 2025 FLSA-qualified overtime - CALCULATIONS					(Instructions are on a separate page)			
					Version of December 22, 2025			
Taxpayer name:								
Are you an FLSA-exempt employee?					(If "Yes", STOP. You are not eligible for the overtime pay deduction.)			
Your FLSA-defined workweek begins (day of week, time):								
*** Include ONLY weeks in which you received paid overtime during 2025 ***								
EXAMPLE:								
12/7 - 12/13	8	\$240	\$20.00	48	45	5	To be calculated by JOCO VITA	3 hour V/L on Mon
(1) Week worked	(2) Overtime hours paid for the week	(3) Overtime amount paid for the week	(4) Regular pay per hour	(5) Number of paid hours for the week	(6) Number of hours worked in the week	(7) Number of hours worked in excess of 40	(8) FLSA-qualified overtime premium pay	(9) Comments

Caution: Certain groups of workers, including but not limited to public sector workers, fire protection and law enforcement workers, group home employees, and others, may operate under different sections of the FLSA and may have different rules for establishing their overtime pay eligibility. If in doubt, ask the taxpayer to check with their employer.