The U.S. Department of Labor in spring 2016 announced changes to the Fair Labor Standards Act (FLSA), raising the salary threshold for employees who are exempt from time-tracking requirements and overtime pay to $913 per week ($47,476 per year). This website answers frequently asked questions about the effect of these changes at Brown. To meet the new requirements, the University will set a new minimum salary at the FLSA threshold for full-time postdoctoral research associates.

**What is the FLSA?** *The FLSA, or Fair Labor Standards Act, introduced the 40-hour work week when it was passed in 1938. The primary purpose of the act is to ensure that workers who work more than 40 hours per week are compensated for overtime with additional pay. The FLSA was updated this summer to raise the salary threshold at which employees can be considered exempt from wage and hour requirements. This change will take effect on December 1, 2016.*

**What are “exempt” and “non-exempt” employees?** *An exempt employee is not subject to the FLSA rules on hours and overtime. The primary reasons for exemption are: a salary for professional or administrative duties that is above the threshold; or primary job duties that involve teaching, medical practice, or legal practice, regardless of salary. (Note that exemptions are based on duties, not on titles or degrees, so simply holding an MD is not grounds for exemption.) Because most or all faculty at Brown are employed as teachers, researchers, or both, faculty will either be exempt (as teachers) or subject to the wage-test if they work primarily as researchers (as “professional employees” as defined by the Department of Labor - all Brown faculty and postdocs are “professional employees”). Professional employees are exempt if their wages are over the threshold, non-exempt if their wages are under the threshold.*

**How is the threshold for exemption determined?** *The threshold is set at the 40th percentile of all full-time salaried workers in the lowest wage-earning census region. It is reset every three years. On December 1, 2016, the threshold will be set to $913 per week, or $47,476 per year. It will be re-set in 2020.*

**What if an employee has more than one job?** *The FLSA does not apply to the individual, but to the job, so even employees with a second job outside of Brown must meet the wage and duties tests at Brown to be considered exempt in their positions at Brown.*

**Resources for faculty who will become non-exempt:** *Brown’s human resources department will organize trainings for all employees who are switching from exempt to non-exempt status, as well as for administrative staff who will have a new role in time-tracking. Look for communications via email and morning mail this fall with more information about training sessions.*

**For Postdoctoral Research Associates, Investigators, Research Associates, and Senior Research Associates:** *All employees whose primary duty is to conduct research will generally be exempt from FLSA regulations as long as their salary is over the threshold (currently $913 per week or $47,476 per year). Paid researchers whose salary is not over the threshold will be required to track their hours in Workday, to receive prior approval from their supervisor to exceed 40 hours per week, and would be entitled to overtime pay if they exceed 40 hours per week.*

**Postdoctoral Fellows (NIH):** *Postdoctoral fellows (NRSA) are defined by Brown as non-employees, and are paid by stipend rather than salary from Brown. The NIH has indicated that Fellow stipend levels will be adjusted to conform with FLSA regulations.*

**Non-NIH Postdoctoral Fellows:** *Non-NIH postdoctoral fellows will generally be treated in the same way as Postdoctoral Research Associates for the purposes of the FLSA. In cases where a Postdoctoral Fellow receives partial funding from Brown and partial funding from another institution or country, the funds will be combined for the purposes of determining FLSA exemption as long as the Fellow is working on a single project or at a single institution. For example, a Postdoctoral Fellow receiving 50% funding from her home country and 50% funding from Brown to serve full time at Brown would be judged exempt if the total of both funding sources met the threshold. A Postdoctoral Fellow receiving 50% funding from Brown and 50% funding from URI to work on separate projects could not combine the funding sources to meet the threshold.*

**For Fellows and Senior Fellows:** *Some Fellows and Senior Fellows at Brown do not teach formal courses. Fellows whose primary duty is research must meet the wage test in order to be considered exempt from the FLSA.*

**For (Research) faculty:** *As long as (research) faculty devote sufficient effort to exceed the wage threshold, they are exempt from FLSA time-keeping requirements. If (research) faculty routinely devote insufficient effort to meet the wage threshold, they will be considered non-exempt and will be paid bi-weekly. For more information see “requirements for faculty who do not meet the threshold,” below. (Research) faculty who are routinely above the threshold but occasionally dip below it will continue to be considered exempt from FLSA regulations.*

**Requirements for faculty who do not meet the threshold:** *Federal law requires some form of time-keeping for any employees who are not exempt from FLSA regulations. In practice, this means that employees who do not meet the tests for exemption must track their hours in Workday and will be paid on a bi-weekly basis.*

*Brown will not require precise timekeeping of all faculty who are moving from monthly to bi-weekly payroll and from exempt to non-exempt. Faculty who currently receive a set salary regardless of effort may enter an average number of hours worked for each week as long as the average number of hours worked does not permanently increase or decrease.*

*If your number of weekly hours change significantly and permanently from the number stated in your contract, please contact your department manager or the contact listed below in the appropriate dean’s office.*

*Non-exempt faculty who are paid based on effort – primarily (research) faculty – will need to track their actual hours worked in Workday and will be eligible for overtime. Any earned overtime pay will come from the same source as the faculty member’s regular salary, and faculty who believe they may exceed 37.5 hours in any given week should receive prior approval from the PI(s) or department administrators overseeing the funds that provide their salary.*

**For all other faculty:** *All Brown faculty not discussed above, including adjunct instructors and regular faculty, are considered to be exempt from FLSA regulations because they are employed as teachers as defined by the Department of Labor (though they may also spend a significant portion of their time conducting research, advising, or performing administrative service).*

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