WHAT ARE NON-DISCRETIONARY BONUS PAYMENTS?

Payments promised and paid out to employees based on set criteria. All non-discretionary bonus payments paid out to non-exempt employees must be included in the calculation of overtime pay in a manner that is compliant with the Fair Labor Standard Act (FLSA) wage and hour rules.

Generally, non-discretionary bonuses include but are not limited to: attendance bonuses, individual or group production bonuses, bonuses for quality and accuracy of work, and retention bonuses.

Example:
Attendance bonuses paid to any employee who has perfect attendance for the duration of a calendar quarter when the bonuses are defined by a formal plan document that is maintained by the department.

WHAT ARE DISCRETIONARY BONUS PAYMENTS?

To qualify as a discretionary bonus under the FLSA, several important requirements must be met:

- The employer must retain discretion as to the fact that the bonus will be paid.
- The employer must retain discretion as to the amount of the bonus payment.
- Discretion must be retained until a time quite close to the end of the period for which the bonus is paid.
- The bonus payment must not be made pursuant to any prior contract, agreement or promise, causing the employees to expect such payments regularly.

Discretionary bonus payments paid out to non-exempt employees do not have to be included in the calculation of overtime pay in a manner that is compliant with the Fair Labor Standard Act (FLSA) wage and hour rules.

WHO IS CONSIDERED NON-EXEMPT AND WHAT DOES IT MEAN?

Employees who are paid biweekly at the University of Michigan are considered non-exempt. This means they are not exempt from being paid overtime (OTP) when working over 40 in a week.

If an employee's job duties do not meet the FLSA requirements to be exempt from overtime pay (OTP), the individual is considered non-exempt and must receive overtime pay (OTP) when working over 40 hours in a week. The pay rate used to calculate overtime pay is based on total earnings.

HOW DO NON-DISCRETIONARY PAYMENTS AFFECT OVERTIME PAY FOR NON-EXEMPT EMPLOYEES?

All non-discretionary payments paid out to non-exempt employees must be included in the calculation of overtime pay in a manner that is compliant with the Fair Labor Standard Act (FLSA) wage and hour rules. The FLSA requires that non-discretionary bonuses - those promised to employees - be allocated over the time period to which they apply and included in calculating the overtime pay due to non-exempt employees. Such a bonus, viewed under the FLSA as additional compensation for employees' work, requires additional overtime pay beyond the employees' regular overtime pay rate, which is one and one-half times their regular hourly rate of pay. Non-discretionary bonuses that are not paid on a weekly basis require allocation to each workweek covered by the bonus before recalculating the overtime compensation due. Generally, non-discretionary bonuses include attendance bonuses, individual or group production bonuses, bonuses for quality and accuracy of work, and retention bonuses.

Non-discretionary payments are considered part of the base earnings for the period of time they are earned and should be used to calculate the hourly rate that is used to pay overtime (OTP).

WHAT IS THE CONCERN?

Since non-discretionary payments are often paid after the period of time they were earned, it is necessary to go back and recalculate overtime pay with the additional, non-discretionary payment amount included.
**HOW IS THE RECALCULATION PROCESSED?**
After the non-discretionary payments are made, a special computer program is run to calculate any adjustments needed to overtime pay.

Employees that worked overtime hours (OTP) during the period of time the payment was earned will have an adjustment amount generated by the process.

**WHO INITIATES THE RECALCULATION PROCESS?**
Information and Technology Services Department (ITS) runs the process quarterly and annually for specific Earnings Codes that are paid to non-exempt employees and represent non-discretionary payments.

**HOW THE FLSA RATE ON OVERTIME PAY IS CALCULATED?**
All earnings in a week are added together including hours paid at the regular hourly rate, all non-discretionary payments, the straight time portion of any hours worked that are paid at 1 ½ times the hourly rate (OTP).

The total is then divided by the total number of hours worked plus any paid time off hours.

The result is an FLSA rate that is slightly higher than the hourly rate. The FLSA rate is then paid on the ½ time portion of the 1 ½ time pay (OTP).

Visit the following page on the UM Payroll website where you can find more information regarding the FLSA rate and how it's calculated.
http://www.finops.umich.edu/payroll/resources/admin/otinfo

**WHAT IS REQUIRED BY DEPARTMENTS TO SUPPORT COMPLIANCE WITH FLSA FOR INCENTIVE/BONUS PROGRAMS?**

1. Notify your HR Representative about any special incentive/bonus programs in place in your department that require paying non-discretionary payments to non-exempt employees.

2. In the formal program document, indicate whether the non-discretionary payments will be paid on either quarterly or annual frequency. Follow the payout cycle described below.

3. Use the Earn Code INQ when requesting quarterly payments and INB when requesting annual payments. See definitions below. Choose these codes when processing the payments through the Additional Pay request process in Wolverine Access.

4. After each scheduled payout, the overtime recalculation process will be run by ITS. Any additional overtime pay will be paid during the month after the non-discretionary payment is made.

5. Notify payroll about any non-discretionary payments that cannot be paid by the payment schedule below. These will require manual intervention. There is a process for initiating the recalculation by employee which departments can use.

**QUARTERLY PAYOUT CYCLE:**
Quarter 1: 1/1-3/31; Pay out in last paycheck of April
Quarter 2: 4/1-6/30; Pay out in last paycheck of July
Quarter 3: 7/1-9/30; Pay out in last paycheck of Oct
Quarter 4: 10/1-12/31; Pay out in last paycheck of January

**ANNUAL PAYOUT CYCLE:**
1/1-12/31; Paid out in the last paycheck in January
UMHHC Payroll; last update 2-11-13

**BONUS CODES**

**EARNINGS CODE = INQ (QUARTERLY INCENTIVE BONUS)**
The long description is “Incentive, Dept Goals Qtr”. Short description is “IncGoalQtr”.

Definition is “Payment to recognize individual achievements as they relate to departmental goals that are part of a formal incentive plan. Payment is made on a quarterly basis. University Payroll Office must be notified about the payment schedule to ensure that overtime is recalculated correctly for non-exempt staff. This is a non-discretionary payment.”

**EARNINGS CODE = INB (ANNUAL INCENTIVE BONUS)**
The long description for INB is “Incentive, Dept Goals Yr”. Short description is “IncGoalYr”.

Definition for INB is “Payment to recognize individual achievements as they relate to departmental goals that are part of a formal incentive plan. Payment is made on an annual basis. University Payroll Office must be notified about the payment schedule to ensure that overtime is recalculated correctly for non-exempt staff. This is a non-discretionary payment.”

**Other Codes that are paid annually and quarterly that get picked up in the quarterly LOT process:**

**Quarterly Bonuses:**
- MQA (Nursing Quarterly Evening Shift Bonus)
- MQB (Nursing Quarterly Night Shift Bonus)
- MQC (FNS Quarterly bonus $500)
- MCS (Miscellaneous Bonus) (Float Bonuses-CSR and Flight Nurses Quarterly)
- LSA (LPN Quarterly Evening Shift Bonus)
- LSB (LPN Quarterly Night Shift Bonus)
- OCS (Nursing On-call Bonus; pays $1.25/hour for on-call hours that exceed 156 in a quarter)
- OCT (Nursing On-call Bonus; pays $1.75/hour for on-call hours that exceed 312 in a quarter)
- UNG (Nursing over Appointment Bonus; pays $2.50/hour for OA hours that exceed the individual limit in a quarter)
- UNH (Nursing Overtime Bonus; pays $2.50/hour for OT hours that exceed the individual limit in a quarter)

**Annual Bonuses:**
- MRB (Nursing Annual Lump Sum)
- MSB (MNA Annual Shift Bonus)
- LAB (LPN Annual Shift Bonus)
- LGV (Longevity payments to bargained for staff)

**Other Codes that are NOT picked up in the LOT processing (Department TK is required to run the LOT process manually):**

- OCU (Nursing; On-call bonus when on-call exceeds 24 hours in a OneStaff period for OR (Main/CVC only)--$6.00 flat rate
- UNG (Nursing; OA hours over the individual limit within 13 weeks paid additional $2.50/hr)
- UNH (Nursing; OT hours over the individual limit within 13 weeks paid additional $2.50/hr)