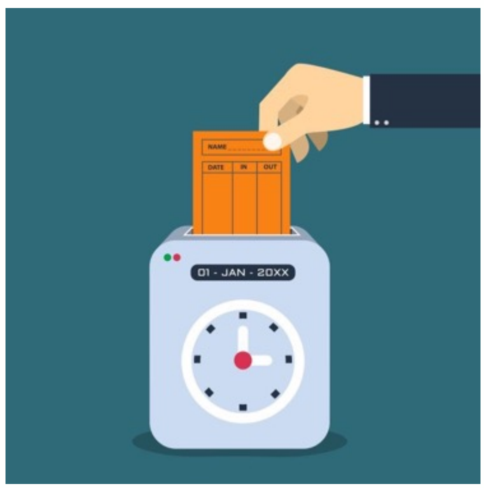
IMPORTANT MEMO to Proponent Group Members:

COMPLIANCE WITH CHANGING WAGE AND HOUR RULES

by David Gould, *Staff Editor*

(NOTE: This is the same memo all Proponent members were sent last week. We are reprinting it in case you missed the original email on August 31st.)

Employers are avoiding payment of overtime wages to workers who have rightly earned them, according to federal auditors. Employees who ought to be in line for time-and-a-half have found their way into the “exempt” (from overtime) category, say officials, carrying a “manager” job title while receiving notably low per-hour compensation.



The Wage and Hour Division of the U.S. Department of Labor has addressed this with changes to its overtime-pay standards. Through these changes, it expects to increase the pay of approximately 4.2 million American workers.

There are only a few revisions that will go into effect (starting Dec. 1 of this year) as a result of the DOL’s actions, but at least one of them is quite significant and could impact a fair number of Proponent Group members who are employees. NOTE: These rule changes DO NOT affect instructors who are properly classified as Independent Contractors.

From the member comments and questions submitted to Proponent headquarters, it seems clear that moving out of the exempt-from-overtime classification—the benefit the government is trying to provide—is not what’s desired.

Quite the opposite: Proponent members and the clubs or courses that employ them (mainly under the Director of Instruction or Teaching Professional titles) want to keep things as they are—some salary paid in many cases, but the lion’s share of annual compensation coming via lesson revenues. Meanwhile there are supervisory duties to handle but still plenty of time to simply teach.

Currently, you can fit into that comfort zone by drawing an annual salary of just $23,816, or $455 a week. After Dec. 1, unless something unexpected happens, your employer will need to basically double that salary money, to $47,476 a year, equal to $913 a week. At your local fast-food franchise, there will be employees with “manager” titles and salaries in the $30,000s who will no longer work 50-plus hours a week without increased compensation—that’s the DOL’s goal and expectation.

But salaried golf instructors who have spoken up are generally wanting to avoid having their employers experience sticker-shock on salary payments. The likely result would be a much bigger cut of lesson revenues for the club to offset the necessary salary bump.

One way to avoid having that happen is to switch from compensation on a salary-plus-lesson-revenue basis to an hourly-wage-plus-lesson-revenue basis. In that case, the D of I would indeed get paid overtime for his or her 41st hour of the week, and everything beyond it. The time clock, and the card in the metal rack with that D of I’s name on it, would become part of the work routine.

Any member who is working with their club’s HR department to find a workaround should learn more about the “cost-neutral” formula for switching a salaried person who works 40-plus hours to a by-the-hour wage-earner who works 40-plus hours. This equation lowers the base per-hour pay and uses the time-and-a-half dollars to get the weekly pay back to where it was before all these rule changes. One catch: Base pay can’t drop so low that it falls short of federal and state minimum-wage rules.

The workaround that seems most feasible—in cases where the gross lesson revenue has been comfortably over $50,000, is to go ahead and up the salary to $47,476. If the old salary had been $30,000, the club will now want to be made whole on the $17,476 the DOL has mandated. To do that, the percentage of lesson money that had previously gone to the club must be increased. If it had been 15 percent, it might be raised to 40 percent—until those extra 25 percentage points have yielded a sum total of $17,476 to the club. At that point, the club’s revenue share can drop back to 15 percent. Under this scenario neither the instructor nor the club is **(Continued on next page)**

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penalized by the new rule.

One potential problem: If that program goes into effect and the D of I gets injured or contracts an illness early in the season, preventing all work activity for several peak-season months, the club is stuck having to pay the $17,476 (on top of the original $30,000) and likely won't get it all back that year.

Important: If you and the club that employs you are taking the trouble to comply with the compensation aspect of the rule, take a moment to assess your compliance with the "duties test." The duties test for exempt status is not being changed, which does help simplify matters, but you may not have been on the correct side of that test previously, and simply didn't realize it. Here is how the Department of Labor explains the "duties test."

- Primary duty must be management of enterprise, or customarily recognized department or subdivision of the enterprise.
- Must regularly direct the work of at least two full-time employees.
- Must have the authority to hire or fire, or provide suggestions and recommendations as to hiring, firing, promotion, etc. with those suggestions given particular weight.

Change is in the air, as federal regulators attempt to institute pro-worker reforms. Proponent Group members who are not independent contractors are faced with the need to analyze their situations, communicate with HR managers at their place of business and come up with a mutually satisfactory solution that maintains customary compensation and complies with government regulation.

If you are classified as an employee, Proponent Group strongly suggests that you discuss your specific situation with your CPA. He or she can help ensure that your overall compensation and business interests are being protected and are being properly adjusted for the new rules, with the goal of avoiding any reduction to your overall compensation.

Member-Designed Product Launches

SKILL IGNITE OFFERS NEW GAMIFIED SKILL TRAINING PLATFORM

Proponent Group members **Mike Bury** and **Cameron McCormick** have just launched the beta version of their new gamified skill training platform with the motto: "Test. Measure. Train." Their goal is to connect coaches to athletes' training.

The co-founders have spent a couple of years putting the software together as an extension of the training programs they have manually created for their students in the past.

"When it comes to training, an athlete has their 'medicine' and their 'vitamins,' explains McCormick. "Vitamins are things you will need every day no matter what. Skill Ignite provides essential 'vitamin' skill training."

SKILL IGNITE

The platform's main features include Challenges (skill tests), Training (gamified skill training) and Training Programs (combined essential skill-training exercises). Instructors can use the pre-built training programs to create structured training sessions. An automated email with Today's Training details is sent to all relevant athletes and staff at the scheduled time.

Additional features to be added soon include Profiles for the coach, athlete and parent, a Skill Index calculation measuring various parts of the game and native app development for both Android and IOS mobile devices.

The SMU Men's Golf Team is one of the early adopters along with several high school teams in Texas.

The website is skillignite.com and Proponent Group members who sign up for one-year a VIP Premium subscription before the end of October will receive 50 percent off the annual upfront cost.