



Mineral



Question of the Week

March 4, 2026

Question

Can a nonexempt employee be paid a salary?

ANSWER

Yes, a nonexempt employee can be paid on a salary basis rather than by the hour. However, this classification can be tricky in practice. It means that the employee is paid a set salary while still being eligible for overtime if they work more than 40 hours in a workweek. It also means you generally wouldn't be taking deductions from their salary for smaller increments of missed time, like long lunches or needing to leave early now and then. That said, you'd still need to track the employee's hours to comply with the Fair Labor Standards Act and so you know when overtime is worked and needs to be paid.

Employers sometimes choose this classification when a role doesn't meet the requirements for being exempt from overtime pay but they want the simplicity of paying a set salary. Ultimately, paying an employee this way is a business decision. It may make sense in certain circumstances, but you should weigh the costs and benefits before deciding to do so.

This Q&A does not constitute legal advice and does not address state or local law.