

# Survey on Overtime and Exemption Changes

Survey Brief — August 2004  
Results of a May 2004 Survey of WorldatWork members



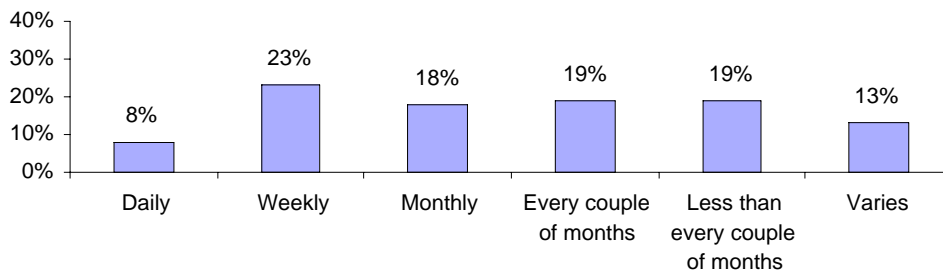
## Introduction and Methodology

This report summarizes the results of a WorldatWork member survey on the final Department of Labor (DOL) rules relating to Section 541 of the regulations. Also known as the “white collar” or exemption tests, the final rules relate directly to the Fair Labor Standards Act of 1938 (FLSA).

Surveys were sent electronically to 3,862 WorldatWork members in May 2004. During a two-week period, 351 members responded. To gauge the level of familiarity about the overtime rules, the first question inquired about the frequency rate that respondents work with the overtime rules.

The results indicate that the majority of respondents interact with the rules fairly regularly: about half of all respondents (49 percent) indicated that they deal with the FLSA overtime rules at least monthly or more often (combined “monthly,” “weekly” and “daily”), while 13 percent said their interaction “varies.” A combined 38 percent reported working with the overtime rules every couple of months or less.

Figure A: “In your current position, how often do you deal with the exemption tests/overtime rules (the so-called ‘541 rules’)?” (n=350)



The demographic profile of the survey’s respondents is similar to that of the WorldatWork membership as a whole. The typical WorldatWork member works at the managerial level or higher in the headquarters of a large company in North America. Ninety-five percent of *Fortune* 1000 companies employ a WorldatWork member.

## Executive Summary

In May 2004, two-thirds of all organizations were either planning, had begun or had already finished an analysis of the impact of the new overtime rules on their organization, and were using internal resources to do so. A strong majority (a combined 66 percent) were either planning, had begun or had finished an analysis of how the new rules might affect their organization. A sizeable 29 percent, however, indicated that they probably would conduct an analysis, but hadn't started. Only 5 percent of organizations reported that they were not planning on conducting an analysis.

Nearly 40 percent of organizations said they believed the new overtime regulations would result in "no change" to their current proportion of nonexempt and exempt employees. At 28 percent, the second most popular answer was "too soon to estimate." Among the 33 percent who said that some employees would likely change their exemption status, most said the change would affect less than 1 percent of employees.

Many employers reported being undecided about whether and how to communicate to their general employee population about the new overtime changes, but most said they would tell those employees experiencing a change in exemption status this news through individual, one-on-one meetings. Forty-one percent of survey respondents indicated they had not yet decided how they would communicate a new exemption status to employees affected by the new rules.

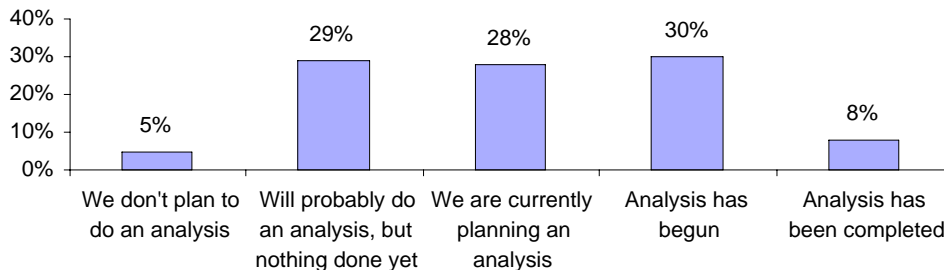
Many compensation professionals said they would like to see the exempt employee minimum salary level higher than \$455/week and the salary ceiling lower than \$100,000/year. Although a solid majority of survey respondents (55 percent) said they believed the new minimum salary level of \$455 per week for exempt employees is "about right," another 44 percent reported believing that the minimum salary level is still too low. Similarly, 45 percent opined that the new salary ceiling of \$100,000 per year (the level above which any employee meeting one of the primary duties requirements could be reclassified as exempt) was too high.

## Detailed Findings

Finding One: In May 2004, two-thirds of all organizations were either planning, had begun or already had finished an analysis of the impact of the new overtime rules on their organization, and were using internal resources to do so.

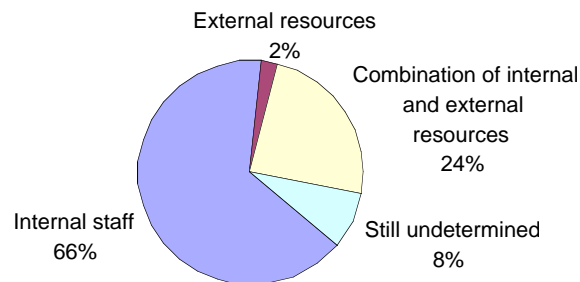
In May 2004 (less than a month after the final regulations were published and fully four months before the Aug. 23 implementation date), survey respondents were split fairly evenly on where their organization stood in terms of analysis on the potential impact of the new rules. A strong majority (a combined 66 percent) were either planning, had begun or had finished an analysis of how the new rules might affect their organization. A sizeable 29 percent, however, indicated that they probably would conduct an analysis, but hadn't started. Only 5 percent of organizations reported that they were not planning on conducting an analysis.

Figure 1: "Where does your organization stand in terms of an analysis of the potential impact of these new rules on your workforce?" (n=351)



Two-thirds of survey respondents (66 percent) indicated their organization was using or would use internal staff only to evaluate or re-evaluate positions (i.e., they were not using the outside help of consultants and others). One-quarter (24 percent) reported using a combination of internal and external staff, while only 2 percent said they would use external resources, such as the help of consulting firms, exclusively.

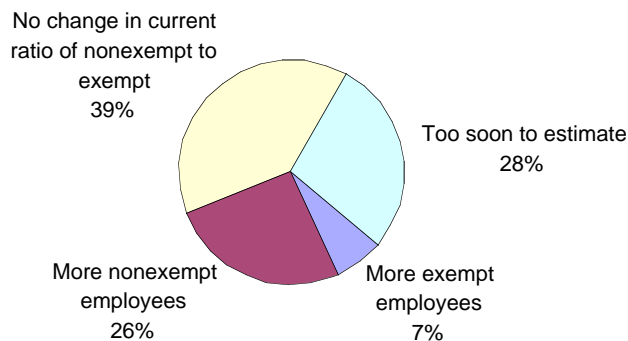
Figure 2: "What resources will your organization use (or have you already used) to evaluate or re-evaluate positions?" (n=350)



Finding Two: Nearly 40 percent of organizations believe the new overtime regulations will result in “no change” to their current proportion of nonexempt and exempt employees. Among the 33 percent who said that some employees would likely change their exemption status, most said the change would affect less than 1 percent of employees.

When asked to estimate the potential net effect on their overall proportion of exempt and nonexempt workforces after the new regulations are fully implemented, the single largest percentage (39 percent) opined there would be “no change” in the current ratio of nonexempt to exempt employees. At 28 percent, the second most popular answer was “too soon to estimate.” Among those respondents who saw a definite trend one way or another in May, the shift seemed to favor an increase in nonexempt employees: 26 percent indicated they would end up with more nonexempt employees, versus just 7 percent who reported their organization would have more exempt employees after implementing the rules.

Figure 3: “What do you believe will be the net effect on your overall workforce after your organization has fully implemented the new regulations?” (n=349)



After first determining where each organization stood in terms of their readiness regarding the new rules (see Figure 1), a follow-up question attempted to specifically gauge the potential employment shift from exempt to nonexempt and vice-versa within the organizations completing the survey. The questionnaire asked only those respondents that indicated earlier they had either “started” or “completed” an analysis of their workforce: In light of the new rules, what percentage of your employee base will be re-classified from nonexempt to exempt and from exempt to nonexempt?

Approximately two-thirds of respondents indicated that it was “too soon to estimate” the employee classification shift. Of the third that were able to estimate the change, more survey respondents indicated a change in the percentage of employees being reclassified to nonexempt than to exempt.

Of the 9 percent of respondents predicting reclassifications from nonexempt to exempt (n=24), half estimated the change to affect 1 percent or less of their employees (n=12). The other 12 respondents answered in a range between 2 percent and 15 percent, and one respondent estimated 25 percent. Of the 19 percent of respondents reporting reclassifications from exempt to nonexempt (n=45), 18 respondents indicated these changes would affect 1 percent or less of their population, and another 18 respondents reported between 2 percent and 5 percent would be

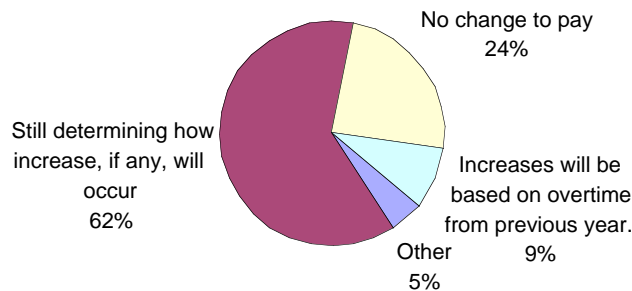
affected. Eight of the remaining nine respondents provided a range between 10 percent and 15 percent, and one respondent estimated 25 percent.

Figure 4: “If you have either started or completed an analysis (of your workforce impact under the new rules), can you estimate how much of your workforce will be reclassified under the new rules from....”

Reclassified from:	n=	“Too soon to estimate”	“Some percent change”	“No change”
“Nonexempt to exempt”	250	66%	9%	25%
“Exempt to nonexempt”	241	65%	19%	16%

Approximately six out of 10 survey respondents (62 percent) were still determining how a pay increase, if any, would be implemented for those employees whose classifications would be changed from nonexempt to exempt. Nine percent said they would calculate the increase based on overtime worked during the previous year, while about a quarter of respondents (24 percent) indicated there likely would not be a change to pay for those being converted to exempt status.

Figure 5: “If your organization has employees whose exemption status will change from nonexempt to exempt, how will the amount of pay increase (if any) be determined?” (n=337)

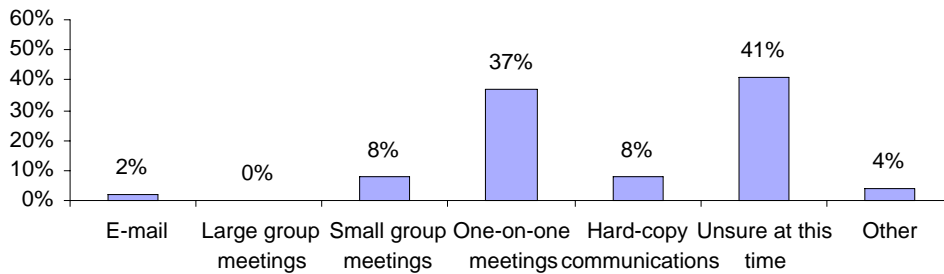


Finding Three: Many employers reported being undecided about whether and how to communicate to the general employee population about the new overtime changes, but most said they would tell those employees experiencing a change in exemption status this news through individual, one-on-one meetings.

When asked if their organization was planning to communicate to all employees the fact that new exemption tests/overtime rules had been published, 39 percent indicated they would not. About a third said they were unsure if they would communicate this, while 25 percent affirmed that they would, indeed, be communicating this information.

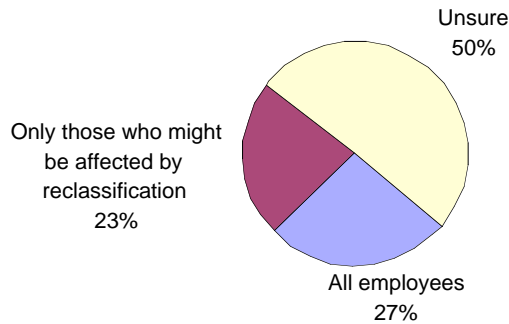
Among the employees who would experience a change in exemption status, however, most employers (37 percent) said they would communicate via one-on-one meetings. Forty-one percent of survey respondents indicated they had not yet decided how they would communicate a new exemption status to employees affected by the new rules.

Figure 6: “For those employees who will have a change in their exemption status, how will you (or have you) communicate their new status?” (n=331)



Half of the survey respondents indicated they were not sure to whom their organization would communicate the new exemption tests/overtime rules. The remaining half was split fairly evenly between “all employees” (27 percent) and “only those who might be affected by reclassification” (23 percent).

Figure 7: “If your organization is planning to communicate (or has already) a general statement that there are new exemption tests/overtime rules, to whom will you communicate this news?” (n=198)



When asked how their organization would communicate a general statement about the new exemption tests/overtime rules, the largest percentage of survey respondents indicated they were not sure (45 percent), followed by e-mail (37 percent), hard-copy communications (25 percent) and an intranet (23 percent).

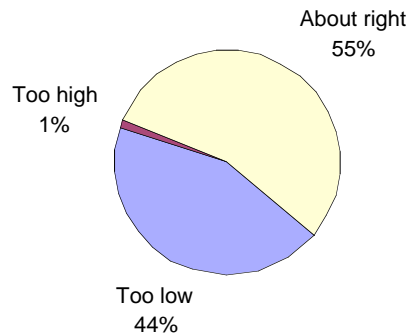
Figure 8: “If your organization is planning to communicate (or has already) a general statement that there are new exemption tests/overtime rules, by which of the following methods will you communicate? Check all that apply.” (n=328)

Unsure at this time	45%
E-mail	37%
Hard-copy (paper) communications	25%
Intranet	23%
Small group meetings	16%
One-on-one meetings	13%
Large group meetings	7%
Other	5%
We will not communicate the fact that there are new rules	1%

Finding Four: Many compensation professionals would like to see the exempt employee minimum salary level higher than \$455/week and the salary ceiling lower than \$100,000/year.

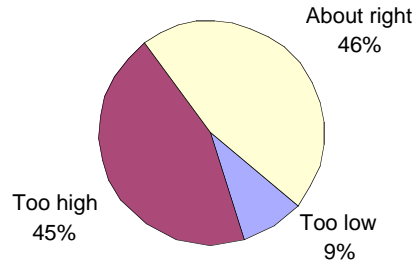
Although a solid majority of survey respondents (55 percent) believe the new minimum salary level of \$455 per week for exempt employees is “about right,” another 44 percent believe the minimum salary level is still too low.

Figure 9: “What is your opinion of the new minimum salary level of \$455 per week for exempt employees?” (n=345)



When asked their opinion of the new \$100,000 per year salary ceiling, survey respondents were again fairly evenly split: 46 percent said the level was “about right,” while 45 percent thought the level to be “too high.” In 2003, the DOL first proposed that any employee earning at least \$80,000 per year and meeting one of the primary duties requirements could be reclassified as exempt. The final rules increased this salary ceiling to \$100,000 per year. Based on the percentage of responses, it seems that \$100,000 is “too high,” and that compensation professionals would have preferred the original \$80,000 per year threshold proposed by the DOL in the draft regulations.

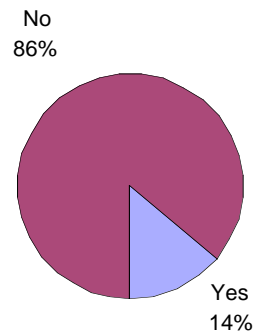
Figure 10: “What is your opinion of the new \$100,000 per year ‘salary ceiling,’ in which any employee who earns more than \$100,000 per year and meets one of the primary duties requirements can be reclassified as exempt?” (n=342)



Finding Five: In May, employees were not asking their employers about possible overtime changes.

Finally, when asked in May 2004 whether employees had been asking about changes to their overtime eligibility since the new rules had been issued, nearly nine out of 10 (86%) indicated they had not.

Figure 11: “Since the new rules were published, have you had any employees ask about their overtime eligibility or whether their jobs might be reclassified?” (n=347)



Because compensation and rewards professionals so commonly interact with the overtime rules and exemption tests, and because the rules are of such importance to the WorldatWork membership as a whole, this association will continue to monitor, report on and survey on any developments related to these issues.

## Respondent Demographics

### Company Size

Fewer than 100 employees	8%
100 to 499	6%
500 to 999	9%
1,000 to 2,499	14%
2,500 to 4,999	15%
5,000 to 9,999	15%
10,000 to 19,999	11%
20,000 and over	23%

### Industries

Finance and Insurance	22%
Manufacturing	17%
Health Care and Social Assistance	13%
Professional, Scientific and Technical Services	9%
Utilities	6%
Information (includes Publishing – electronic and print, IT, etc.)	4%
Educational Services	3%
Other Services (except Public Administration)	3%
Public Administration	3%
Retail Trade	3%
Accommodation and Food Services	2%
Real Estate, Rental and Leasing	2%
Agriculture	1%
Construction	1%
Transportation and Warehousing	1%
Arts, Entertainment and Recreation	0%
Other	11%

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