

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

WAGE RAISES CANNOT COVER OVERTIME

Wage or salary increases cannot be later claimed to cover overtime payments due under the Wage and Hour Law, General Philip B. Fleming, Administrator of the Wage and Hour Division pointed out today.

"Cases have recently come to my attention where our inspectors have found overtime payments due to employees and then have been informed by the employers that wage or salary increases had been given to employees--the amounts varying in each case--and that the amounts of such increases should run to the employer's benefit in squaring off the debt due the employee under our computations for overtime," General Fleming said.

"Unless the employer has adopted a constant wage plan, such as is outlined in the Wage and Hour Division's Interpretative Bulletin No. 4 or unless it is made clear to the employees at the time they are given additional amounts that such amounts are to compensate them for overtime and are not increases in salary, the division will not recognize the additional amounts as advances toward overtime or as payments for such time. Payments made to employees cannot be wage or salary increases and extra compensation for overtime at one and the same time. Where additional amounts are paid without any understanding that they are overtime compensation and the payment of such amounts remains constant even during weeks in which the employee works no overtime, the payments are in fact wage or salary increases and must necessarily be reflected in an increase in the employee's regular hourly rate of pay rather than as an offset against extra compensation due for overtime."

General Fleming also pointed out that similar situations have arisen where companies have undertaken to pay more than the union scale for certain work and then have sought to fall back upon the additional compensation so paid as an offset against extra compensation due for overtime under the Wage and Hour Act. General Fleming emphasized that in such situations as in those referred to above, the payment of additional amounts cannot be offset against extra compensation for overtime due under the Act unless it was stipulated at the time such amounts were paid that they were paid as extra compensation for overtime and not as increases in the scale of wages above the scale required by union agreement.

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