

Massachusetts Overtime FAQs

When is overtime due?

In the next paycheck after it was earned.

Must I pay overtime when an employee works more than 8 hours a day?

No. Overtime is calculated on a weekly, not a daily basis.

Can I calculate overtime on a bi-weekly basis? That is, if an employee works 45 hours one week, and 35 hours the next week, can I pay the employee for 80 hours of straight time.

No. Overtime is earned on a weekly basis. Even if you pay employees every other week, you must calculate overtime based on the week in which it was earned.

Can I provide “comp” time to an employee in lieu of overtime?

No. Employees eligible for overtime must be paid time and a half their regular rate of pay for hours worked in excess of forty per week. You cannot provide compensatory or other paid time off in lieu of overtime. Some exceptions apply to state and federal employees.

Can my employee and I mutually agree that overtime will not be owed for hours worked in excess of 40 hours per week?

No. The Massachusetts and federal governments prohibit an employer and employee from making side agreements that would otherwise violate the wage laws.

If I provide paid holidays, must I pay overtime if an employee works 40 or fewer hours a week, but is paid for more than 40 hours of work in a week?

No, overtime is based on hours actually worked during a given work week. You need not include holiday pay as “hours worked.”

Must I pay overtime when an employee works on a Sunday or holiday

Generally, no. There are certain exceptions for employees that work in the retail industry.