

**ARTICLE 46-03**

**CALCULATION OF A REGULAR RATE AND OVERTIME**

Chapter  
46-03-01            Calculation of a Regular Rate and Overtime

**CHAPTER 46-03-01**  
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Section  
46-03-01-01            Formulas for Determining Regular Rate and Overtime

**46-03-01-01. Formulas for determining regular rate and overtime.**

1. Determining overtime from an hourly rate:

$$\begin{array}{l} \text{Hourly rate} \times 1.5 = \text{Overtime hourly rate of pay} \\ \text{Overtime hourly rate of pay} \times \text{Number of hours worked in excess of 40} = \text{Amount of overtime due} \end{array}$$

2. Determining hourly rate and overtime from monthly salary:

$$\begin{array}{l} \frac{\text{Monthly salary} \times 12}{52} = \text{Weekly salary} \\ \frac{\text{Weekly salary}}{\text{Total hours worked during that week}} = \text{Rate per hour} \end{array}$$

To calculate overtime from this:

$$\text{Rate per hour} \times 1/2 \times \text{Number of hours worked in excess of 40} = \text{Amount of overtime due}$$

3. Determining hourly rate and overtime for retail employees paid principally from commissions:

$$\frac{\text{Total compensation for one week}}{\text{Total hours worked for that same week}} = \text{Regular rate of pay}$$

4. Weighted average method of overtime: When an employee performs two jobs for the same employer, with each job having a different rate of pay, the method of computing overtime is as follows:

$$\begin{array}{rcl}
 \text{Job 1: Rate of pay} & \times & \text{Number of hours} & = & \text{Compensation} \\
 \text{Job 2: Rate of pay} & \times & \text{Number of hours} & = & \text{Compensation} \\
 & & \hline
 & & \text{Total hours} & & \hline
 & & & & \text{Total compensation} \\
 \hline
 \text{Total compensation} & = & \text{Average per hour} \\
 \hline
 & & \text{Total hours} \\
 \hline
 \text{Average per hour} & = & \text{Rate of overtime} \\
 \hline
 & & 2
 \end{array}$$

The rate of overtime multiplied by the number of overtime hours (hours in excess of 40) is the total overtime due.

**History:** Effective December 1, 1992; amended effective March 1, 1998.

**General Authority:** NDCC 28-32-02(1), 34-06-04

**Law Implemented:** NDCC 34-06-11, 34-06-12