1. What is the Fair Labor Standards Act (FLSA)?

The FLSA is a federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards for employees in the private sector and in Federal, State, and local governments.

2. What do the terms “exempt” and “non-exempt” mean?

The status of "exempt" and "non-exempt" under FLSA determines whether an employee earns overtime or compensatory time. Employees who are exempt from the requirements of this law do not earn overtime regardless of the number of hours worked. Employees who are non-exempt from the requirements of FLSA are eligible for compensatory time or overtime pay for hours worked over 40 in a workweek.

3. How is exemption determined?

Under the regulations, there are three tests that must be passed to be considered exempt from FLSA. An employee must first be paid on a salary basis (not hourly), must earn a minimum salary amount defined by FLSA, and meet the duties test. If all three tests are not passed, a position cannot be considered exempt.

4. What is changing on December 1, 2016 with the revised FLSA regulations?

The updated FLSA regulations change the minimum salary threshold required for positions to be considered exempt. Currently the threshold is $455 per week ($1,971.66 per month or $23,660 per year). Under the new regulations effective December 1, 2016, that threshold is being raised to $913 per week ($3,956.33 per month or $47,476 per year). See chart below:
<table>
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<tbody>
<tr>
<td>1.) Minimum Salary Threshold</td>
<td>$455 / week or $23,660 / year</td>
<td>$913 / week or $47,476 and will increase every 3 years</td>
</tr>
<tr>
<td>2.) Paid Basis</td>
<td>Salary</td>
<td>No Changes</td>
</tr>
<tr>
<td>3.) Job Duties Test</td>
<td>Admin, Exec, Prof, Outside Sales</td>
<td>No Changes</td>
</tr>
</tbody>
</table>

5. Are there exceptions to the salary threshold for exemption?

Yes. Certain professional positions, such as teachers, coaches, doctors, veterinarians and lawyers, do not have to meet the salary threshold to be considered exempt. This teaching exemption applies to faculty titles and others such as Graduate Assistant-Teaching (GAT). Graduate Assistant-Research (GAR) positions are also in a special category due to being engaged in research in the course of obtaining an advanced degree under the supervision of a faculty member.

6. Do the regulations allow for a different salary threshold for Postdoctoral Research Associates or other titles related to conducting research in a higher education setting?

No. Research positions must meet the job duties tests and salary threshold to be exempt.
7. Who applies the tests to determine exemption status for titles/positions at Texas A&M University?

Human Resources Compensation team has historically been responsible for reviewing position classifications to determine exemption status at the title or position level, as well as monitoring compliance with the minimum salary threshold and position description content. With the December 1 implementation of the new System-wide Pay Plan and a single title listing used by all Texas A&M System Members, the process now involves collaboration with other System HR offices, the Pay Plan Administration committee and final decisions by the Pay Plan Administrator for consistency. Some titles that have traditionally met the exemption tests at Texas A&M University are being changed to non-exempt as a result of this collaboration and analysis, with a focus on mitigating legal risk and applying the regulations consistently across all System Members. Human Resources Compensation team will continue to review submitted position descriptions for compliance with the title’s exemption status as well as monitor the minimum salary threshold for exempt positions.

8. How do I know if my position is impacted?

The HR Staff will be notifying employees who have been identified as being impacted by the change.

9. When are these changes effective for employees?

The changes are effective December 1, 2016.
10. How is the pay different for non-exempt employees?

Non-exempt employees must be paid for all hours worked. The Texas A&M University System’s work week is defined as:

- **If Paid Bi-Weekly:** Thursday through Wednesday
- **If Paid Monthly:** Monday through Sunday

Overtime pay and compensatory time are based on the hours worked in the individual work week (over 40 hours in a work week), not the entire pay period.

11. What happens when an employee who is non-exempt due to salary level, and receives a salary increase that raises the annual salary above $47,476?

Depending on the position, the employee may become exempt. The HR staff will be monitoring changes to salary each month to determine if change in classification is needed. If so, HR will contact the employee and their supervisor with details.

12. Can two employees in the same title have a different exemption status- one non-exempt (paid below $47,476) and one exempt (paid at least $47,476)?

Yes, employees in the same title performing the same type of work, could be exempt or non-exempt. This would occur when one employees’ base salary is below the $47,476 FLSA minimum salary threshold and another employee’s base salary is at or above the threshold.