

Financial Management Circular: #2016-4

Effective Date: November 20, 2016

General Subject: Compensatory Time Off

Specific Subject: Grandfathering of Compensatory
Time-Off Accrued by Formerly Exempt Employees

Authority: IC 4-15-2.2-15(5)
31 IAC 5-7-3(2)

Application: This circular applies to employees who: 1) were exempt from the Fair Labor Standards Act and ineligible for premium overtime compensation before 11/20/2016, 2) became eligible for premium overtime compensation on 11/20/2016 pursuant to Financial Management Circular #2016-02; and, 3) had accrued compensatory time off under Financial Management Circular #87-2.1, #2004-02, or #2013-04 that was unused as of November 20, 2016

Employees not covered by the Financial Management Circular referenced in 31 IAC 5-7-3(1) are exempt from eligibility for premium overtime compensation and the Fair Labor Standards Act (FLSA). The state had no legal obligation to pay overtime wages or provide compensatory time off to employees doing exempt work. However, from time to time, agency heads authorized compensatory time off for certain exempt employees in accordance with Financial Management Circular #87-2.1, #2004-02, or #2013-04. Changes to the "white collar" overtime exemption in 29 CFR 541 result in some formerly exempt employees becoming overtime eligible, thereby creating the issue of how previously accrued, exempt, compensatory time off will be treated after November 20, 2016.

Grandfathering of Compensatory Time-Off for Formerly Exempt Employees

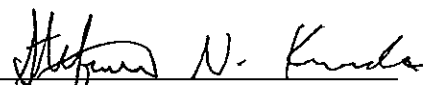
Compensatory time off that:

- 1) was authorized and earned per Financial Management Circulars (FMC) #2013-04, #2004-02, or #87-2.1, prior to November 20, 2016, and
- 2) is on the account of an employee whose eligibility for premium overtime compensation changes from exempt to eligible as a consequence of the changes to 29 CFR Part 541, effective November 20, 2016

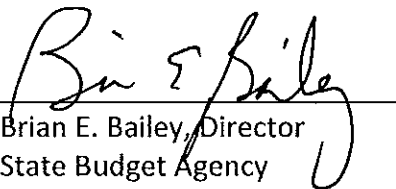
remains on account and may be used by the employee, after November 20, 2016, in accordance with the terms of the FMC that was in effect at the time the compensatory time off was accrued.

Upon termination or interagency transfer an employee receives no compensation for compensatory time accumulated while the employee was overtime exempt. Exempt compensatory time off may not be used after an employee has given notice of her/his intent to terminate or transfer. No more than three weeks of exempt compensatory time may be taken off during a calendar year. Accumulated unused exempt comp time may be carried forward from one calendar year to the next.

Overtime compensation for formerly exempt employees, for work performed before November 20, 2016 that is not consistent with provisions of this circular must be approved by the State Personnel Department and the Budget Director.



Stefanie N. Krevda, Interim Director
State Personnel Department



Brian E. Bailey, Director
State Budget Agency