



CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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Dear :

Your emailed correspondence to the Department of Labor (DOL), Office of the Executive Secretariat, was forwarded to our office in the Office of Chief Counsel, Internal Revenue Service since your question relates to the overtime deduction under § 225 of the Internal Revenue Code (IRC).

In order to be eligible for the § 225 deduction, an individual must be paid "qualified overtime compensation." Qualified overtime compensation must, among other things, be paid to an individual who is both covered by the Fair Labor Standards Act (FLSA) and not exempt from the FLSA's overtime requirement. If you are not covered by the FLSA's overtime requirement, then you are not being paid qualified overtime compensation for purposes of the deduction.

FLSA section 13(b)(3) provides an exemption from the overtime provision of the FLSA for "any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act." 29 U.S.C. § 213(b)(3). Title II of the Railway Labor Act applies, in relevant part, to "every common carrier by air engaged in interstate or foreign commerce . . . and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers." 45 U.S.C. § 181. FLSA section 13(b)(3) thus generally exempts employees of air carriers, such as flight attendants, from the FLSA's overtime requirement.

As a result, if you meet this exemption or otherwise are not covered by the FLSA's overtime requirement, then you are not paid any qualified overtime compensation and are not eligible for the § 225 tax deduction. We are attaching a digital reference guide from the [DOL's Handy Reference Guide to the FLSA](#). It includes a toll-free phone number to the Wage and Hour Division of DOL that you may call if you have additional questions about exemptions under the FLSA. Whether an individual is covered by the FLSA and not exempt from the FLSA are fact-specific inquiries that are within the jurisdiction of the DOL.

I hope this information is helpful. If you have any additional questions about the qualified overtime compensation deduction under IRC §225, please contact our office at

Sincerely,

Mikhail Zhidkov
Senior Technician Reviewer
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and
Employment Taxes)