

Understanding the Fall DST Transition

Overtime Calculation

The fall DST transition results in workweek changes that can generate **unexpected regular time** for employees who work across workweek boundaries.

The unexpected regular time is actually due to the change in workweek because of the "extra" hour in fall DST. Under Federal labor law, workweeks are always 168 hours, the "extra" hour cannot be used to make a long (169 hour) week. Instead, a new workweek must begin 168 hours prior to the DST offset week, creating a one hour gap in weeks for overtime calculations.

In the case that employees work across the boundary between these workweeks, there is special treatment required under Federal labor code for overtime calculation, as described in 29 CFR 778.301 and 29 CFR 778.302.

<https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-B/part-778>

This may result in as much as 1 extra hour of regular time for employees, and this will normally show as an extra hour of regular (non-overtime) during the week where the DST transition occurred.

For example, consider the two week period as follows, and shown graphically on the next page:

Workweeks start at 12:00AM.

Work 1 is the workweek that includes the DST transition.

Work 2 is the following workweek.

Work 1 is 168 hours long. This means it must end "an hour early" because 12:00AM at the end is actually at 1:00AM on the next day, if it were not for DST.

Work 2 is 168 hours long also. It starts a hour later so that the end matches the new 12:00AM without DST. The "Gap" is this hour between when the old workweek started and when the new workweek starts.

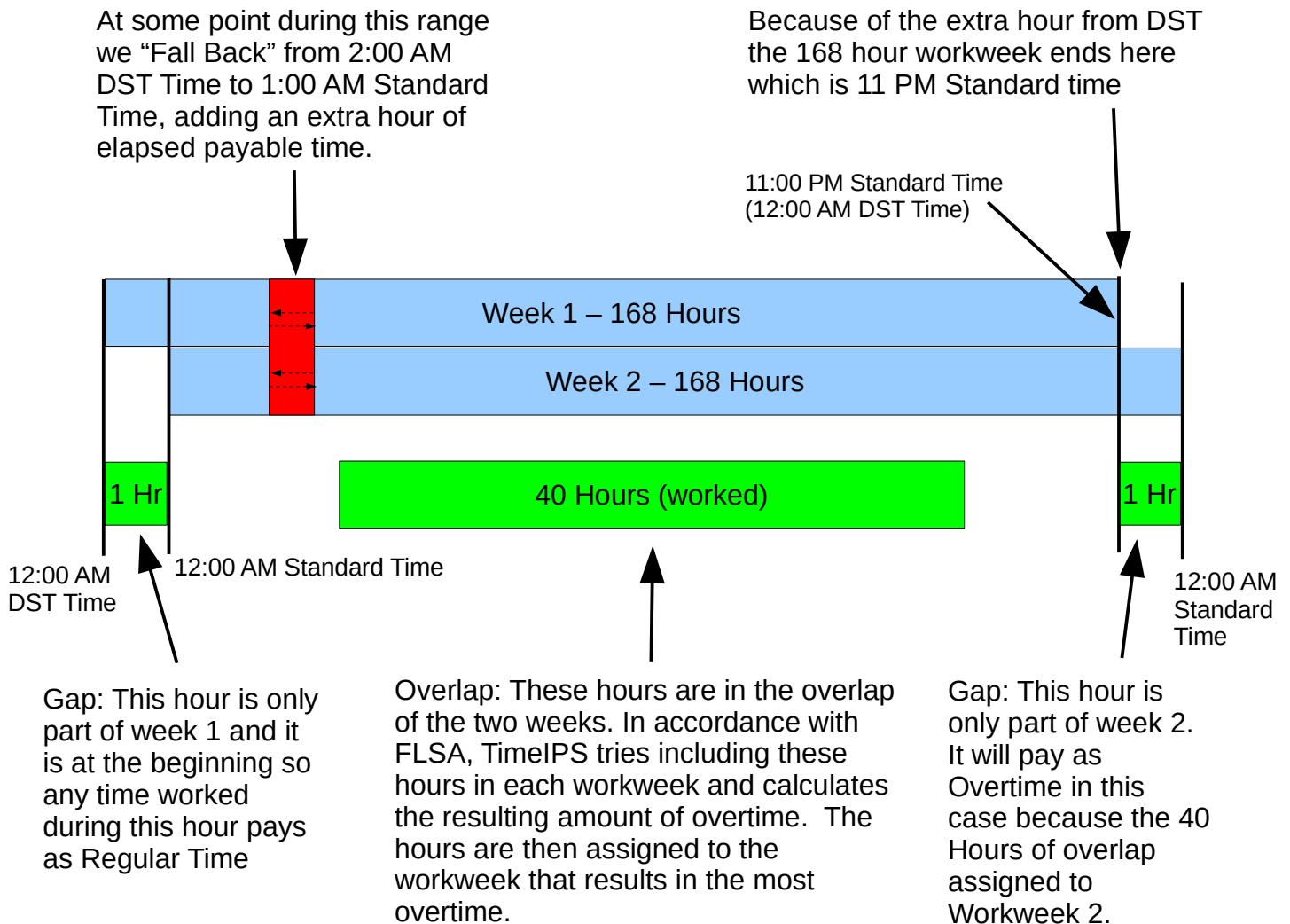
An employee works 42 hours total. 41 hours fall in Week 1 (the first and second green bars), and 41 hours fall in Week 2 (the second and third green bars).

This is 42 hours total which intuitively seems like it should create two hours of overtime. However, this "week" is actually a week plus one hour. The employee is due 1 hour of regular time for the first hour that is attributed to Week 1. All remaining time is in week 2, which then has 41 hours total, of which only 1 hour is overtime.

Other combinations of hours in Week 1 and Week 2 can also result in extra regular time when time is worked during the gap. The calculation will depend on the hours worked in each week and if those hours put the employee into overtime or not in each week. Per Federal labor law, TimeIPS will calculate hours in the way that results in the most overtime for the employee and will indicate that such hours would be paid as overtime.

If you have questions on the detail of the law's handling of this situation, we advise seeking council from an attorney specializing in time and labor law.

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In this example an employee works at the beginning and end of the range. The result of the calculation is 41 hours of Regular Time and 1 hour of Overtime. If either of the beginning or ending hours are absent, the 40 hours during the overlap will be associated with either Workweek 1 or Workweek 2 as appropriate.

To avoid unexpected Regular Time:

- Do not have employees work during both Gaps shown above around the DST shift.
- Set workweeks to follow your timezone, but without DST. This will cause all workweeks to be 168 hours without any overlaps. During DST, the weeks will be considered one hour offset, i.e. 1AM to 1AM instead of 12:00AM to 12:00AM.
- Talk to your attorney about the possibility of using the payroll engine option to allow 167/169 hour workweeks to just stretch or shrink the weeks to match DST.