

Understanding the Spring DST Transition

Overtime Calculation

The spring DST transition results in workweek changes that can generate **unexpected overtime** hours in businesses with employees working across workweek boundaries.

The unexpected overtime is actually due to the change in workweek because of the "missing" hour in spring DST. Under Federal labor law, the missing hour causes the workweek that includes the DST transition day to be an hour short (167 hours instead of the legal 168 hours) and therefore overlap by one hour the following week for overtime calculations.

In the case that employees work across the boundary between these weeks, 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 overtime being legally required for employees, and this overtime will be paid in the workweek following 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.

Week 1 is the workweek that includes the DST transition.

Week 2 is the following workweek.

Week 1 is only 167 hours because 12:00AM at the end is actually at 11:00PM on the previous day, if it were not for DST.

Week 2 is 168 hours, but the first hour actually would have been in the previous week if it were not for DST. This hour is called the "overlapping hour" and will be overtime in the following example:

An employee works 40 hours in what would have been Week 1 without DST. This means the employee works during the overlapping hour.

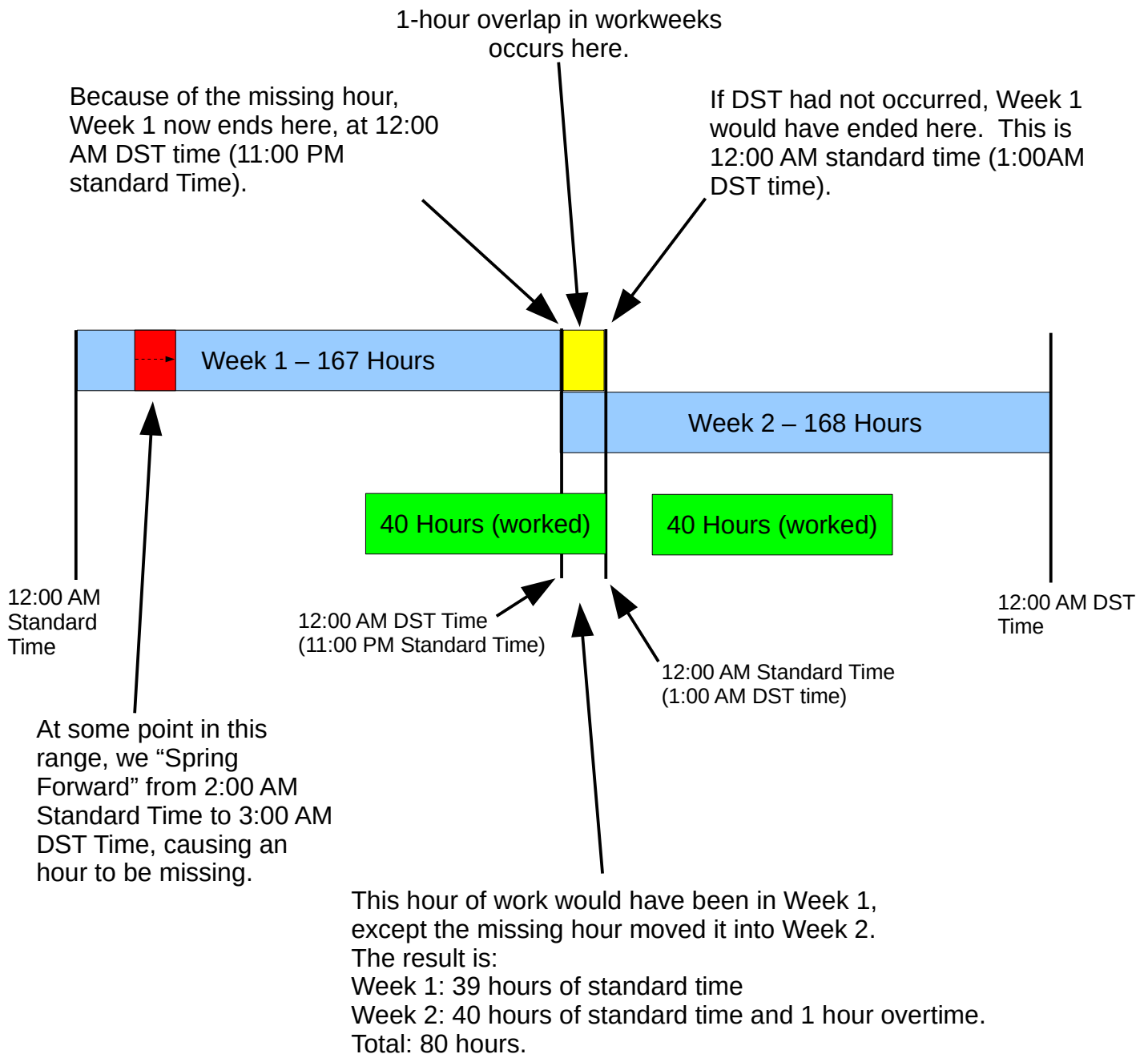
The employee then works 40 hours in Week 2.

This is 80 hours total in two weeks, which intuitively would mean no overtime. However, the employee is actually due 1 hour of overtime because the first 39 hours are attributed to Week 1 which ended early, pushing one hour into week 2, which then has 41 hours total.

Other combinations of hours in Week 1 and Week 2 can also result in overtime when time is worked during the overlapping hour. 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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To avoid unexpected Overtime:

- Do not have employees work in the overlapping hour where one workweek transitions into the next in the week including/following 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 that allows 167/169 hour workweeks, essentially just stretching or shrinking weeks to match DST.