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## 29 C.F.R. § 778.502

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### Artificially labeling part of the regular wages a “bonus”.

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- (a) The term “bonus” is properly applied to a sum which is paid as an addition to total wages usually because of extra effort of one kind or another, or as a reward for loyal service or as a gift. The term is improperly applied if it is used to designate a portion of regular wages which the employee is entitled to receive under his regular wage contract.
- (b) For example, if an employer has agreed to pay an employee \$300 a week without regard to the number of hours worked, the regular rate of pay of the employee is determined each week by dividing the \$300 salary by the number of hours worked in the week. The situation is not altered if the employer continues to pay the employee, whose applicable maximum hours standard is 40 hours, the same \$300 each week but arbitrarily breaks the sum down into wages for the first 40 hours at an hourly rate of \$4.80 an hour, overtime compensation at \$7.20 per hour and labels the balance a “bonus” (which will vary from week to week, becoming smaller as the hours increase and vanishing entirely in any week in which the employee works 55 hours or more). The situation is in no way bettered if the employer, standing by the logic of his labels, proceeds to compute and pay overtime compensation due on this “bonus” by prorating it back over the hours of the workweek. Overtime compensation has still not been properly computed for this employee at his regular rate.

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