CATO
RESEARCH BRIEFS
IN ECONOMIC POLICY
August 9, 2023 Number 344

Too Many Managers

The Strategic Use of Titles to Avoid Overtime Payments

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Managerial roles are thought to encompass increased responsibility and oversight scope. Managers are often in charge of budgets and schedules, thus determining the workload and pay of others. In addition, they often interview potential employees and make decisions regarding promotion or firing, thus helping to shape the company's employee quality. In line with this enhanced responsibility, managers often receive higher salaries than nonmanagers, other forms of pay (e.g., bonuses), and perquisites not held by nonmanagers.

The Fair Labor Standards Act (FLSA) delineates managers from regular employees to decide who is entitled to overtime pay. We investigated whether firms appear to strategically assign managerial titles to pay less overtime. Specifically, we examined FLSA provisions that exempt firms from paying employees overtime wages if the employee is a "manager" and receives a salary above a threshold set by the FLSA. We investigated the extent to which companies appear to be taking actions to avoid paying employees overtime, such as by hiring employees with potentially deceptive managerial job titles (e.g., front desk attendants hired as "directors of first impressions") with responsibilities similar to nonmanagers to avoid paying overtime.

Our central finding is that there is a sharp increase in firms' use of managerial titles around the regulatory salary threshold that allows them to avoid paying for overtime. We saw a 485 percent increase in the usage of managerial titles for salaried employees just above the salary threshold set in the FLSA ($455 per week) that was in effect during our sample period. In addition, many of these managerial titles seem questionable (such as "director of first impressions" and "assistant bingo manager"). We did not observe any similar abnormal spikes in managerial titles around any other salary thresholds.

Editor, JEFFREY MIRON, Harvard University and Cato Institute.

Furthermore, five states have enacted augmented laws to the FLSA and use overtime exemption thresholds from these laws (different from the FLSA) that vary over time and across locations. As a result, FLSA thresholds do not apply in these states, and we found no spikes in managerial titles in these states around the same FLSA threshold. Also, the overtime pay exemption only applies to salaried managers, so we explored the prevalence of managerial titles for hourly employees of the same firms that spike the number of salaried managers at the FLSA threshold. We found that there are no spikes in the use of managerial titles for hourly employees at these firms.

Next, we explored the relationship between overtime-avoiding titles and two other measures. First, we examined the Department of Labor's Wage and Hour Division enforcement actions. We found that having salaried positions with managerial titles that pay just above the overtime threshold is strongly associated with future enforcement actions. Second, we explored the use of fake-sounding managerial titles. We found strong evidence of a more than 100 percent increase in the usage of these fake-sounding titles just above the FLSA threshold. Both of these provide additional evidence for our analysis capturing strategic firm behavior of overtime avoidance just above the FLSA salary threshold.

We then explored the characteristics of the firms that use managerial titles most intensively just above the threshold to avoid paying overtime. We found that the probability of firms' strategic use of managerial titles increases when they appear to have more bargaining power and when laws governing employee protection are weaker. Specifically, the strategic use of managerial titles is 52.8–91.8 percent higher in places where state laws are less protective of worker rights. Moreover, to explore if specific industries appear to have a greater willingness (or ability) to use this strategy, we analyzed low-wage, high-violation industries identified by the Department of Labor: retail, food and drink services, janitorial and housekeeping services, and hotels. Consistent with the strategic use of titles for overtime avoidance, these industries are more intensive users of strategic managerial titles.

Finally, we examined the relation between firms' incentives and overtime avoidance. We found evidence that firms' financial constraints play a role in their use of overtime avoidance practices. We also found that overtime avoidance is higher when firms face less competition in the labor market for the positions they are hiring for, consistent with firms using the overtime exemption rules more intensively when they have more bargaining power. Additionally, when the labor pool is better educated, firms tend to offer fewer overtime-avoiding positions, potentially due to increased labor mobility and the legal consciousness of employees.

To provide additional evidence that our results are driven by overtime avoidance, we focused on a subset of firms that operate establishments in multiple states concurrently. We examined whether we saw evidence within each of these firms of more overtime avoidance through the strategic use of titles in places where the firm's bargaining power is greater. The advantage of this test is that because it exploits variation within the same firm, it accounts for any differences across firms that could drive our results. We found strong evidence that the same firms, especially those in high FLSA-violation industries, appear to engage significantly more in the strategic use of titles to avoid paying overtime in states where they have relatively greater bargaining power. Lastly, we found that our results persist to the present day and appear to be, if anything, becoming more prevalent.

NOTE

This research brief is based on Lauren Cohen, Umit Gurun, and N. Bugra Ozel, "Too Many Managers: The Strategic Use of Titles to Avoid Overtime Payments," National Bureau of Economic Research Working Paper no. 30826, January 2023.