

May 2016

LABOR & EMPLOYMENT LAW ALERT

LABOR DEPARTMENT SIGNIFICANTLY INCREASES MINIMUM SALARY AND COMPENSATION LEVELS REQUIRED TO QUALIFY EMPLOYEES FOR "WHITE COLLAR" OVERTIME EXEMPTION

On May 18, 2016, the U.S. Department of Labor ("DOL") announced the publication of its long-awaited final rule updating the overtime regulations of the Fair Labor Standards Act ("FLSA") which more than doubles the salary level required to satisfy the FLSA's overtime exemption for so called "white collar" exemptions (for executive, administrative and professional employees). The final rule also increases by 34% the total annual compensation required for an employee to qualify for the less rigorous exemption test for "highly compensated employees."

The FLSA White Collar Overtime Exemption Regulations In A Nutshell

There are two components to the FLSA's white collar overtime exemption -- a salary test (an exempt employee must be paid a predetermined fixed salary at or above a specified weekly level that is not subject to reduction because of variations in work quality or quantity) and a duties test (an exempt employee must primarily perform executive, administrative or professional duties). The final rule does not change the duties test, but vastly increases the salary level required to satisfy the salary test, as follows:

1. the standard weekly salary level will increase to \$913 weekly (up from \$455 currently) this increase is the equivalent of \$47,476 annually (up from \$23,660 currently). Up to 10% of such standard weekly salary level can come from non-discretionary bonuses, incentive payments and commissions that are paid at least quarterly;
2. the total annual compensation required to qualify high-earning employees for the less rigorous highly compensated employees white collar exemption standard (a minimal duties test) will increase to \$134,004 annually, including a weekly salary of at least \$913 (up from \$100,000 with a weekly salary of at least \$455); and
3. establishes a mechanism to adjust and update these minimum salary and compensation levels required to satisfy the salary test automatically every three years, beginning January 1, 2020.

Employers -- Conduct A Self-Audit!

While the final rule does not change anything with respect to employees currently classified as non-exempt (overtime eligible), employers are well advised to assess whether those employees they currently classify as overtime exempt will continue to be properly classified on December 1, 2016 (as a result of the final rule and otherwise).

We are available to provide counsel and guidance concerning these issues, as well as other management labor and employment law concerns. For additional information, please contact one of the attorneys named below or the attorney with whom you have a primary relationship.

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This information is provided as a public service to highlight matters of current interest and does not imply an attorney-client relationship. It is not intended to constitute a full review of any subject matter, nor is it a substitute for obtaining specific legal advice from appropriate counsel.

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