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UPDATE: Final Publication of Department of Labor Proposes FLSA Regulations to Increase the Salary Threshold for Exempt Employees is Imminent

By Dave Robinson, Esq. on April 27, 2016



On June 30, 2015, the U.S. Department of Labor announced its proposed revised regulations related to the Fair Labor Standard Act's "white collar" exemptions, which apply to executive, administrative, professional, outside sales and computer employees. The publication date of the final regulations remains uncertain, but a growing consensus is that they are likely to be released some point in the next four weeks (i.e. May or June 2016). It is still anticipated that the revision's effective date will be 60 days after publication.

This indicates that employers will need to be in a position to implement its compliance plans by as early as mid to late July.

In order for an employee to qualify for a white collar exemption, his or her salary and job duties must satisfy certain threshold criteria. The current salary threshold, last updated in 2004, is \$455 per week (or \$23,660 per year). The proposed changes would more than double the current threshold by indexing the salary level to the 40th percentile of earnings for full-time salaried workers. The DOL projects that when the revisions would go into effect the new salary threshold would be increased to \$970 per week (or \$50,440 per year). The DOL also proposes to increase the salary threshold for "highly-compensated" employees from \$100,000 per year to \$122,148 by indexing the salary level to the 90th percentile of earnings for full-time salaried workers. These salary thresholds will thereafter automatically update on an annual basis to prevent the levels from becoming outdated.

Given the impending rule publication, Employers should review now what changes these regulations will make to the classification of their exempt employees. Inevitably, employers will likely need to reclassify some employees to nonexempt or drastically increase their salary in order to meet the threshold requirements. Recognizing ahead of time which employee class(es) will change will be vital for employers to control or eliminate increased costs going forward.

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