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Overtime Regulations Revised: Department of Labor Issues Final Fair Labor Standards Act (FLSA) Regulations to Increase the Salary Threshold for Exempt Employees

By Dave Robinson on May 19, 2016



Yesterday, the U.S. Department of Labor (DOL) released its final regulations related to the FLSA's "white collar" exemptions, which apply to executive, administrative, and professional employees.

Here are the key points on what has been changed:

Salary Threshold Has Increased To \$913/week

In order for an employee to qualify for a white collar exemption, his or her salary must satisfy certain threshold criteria and meet certain required duties. Under the new regulations, the salary threshold has increased from \$455 per week (or \$23,660 per year) to \$913 per week (or \$47,476 per year), which is less than the \$970 per week originally in the proposed regulations. Unlike previously noted, the DOL made no changes to the duties test.

• "Highly Compensated" Threshold Also Increased

The DOL also increased the salary threshold for "highly-compensated" employees (which provides for a relaxed duties test for the exemption) from \$100,000 per year to \$134,004 per year by indexing the salary level to the 90th percentile of earnings for all full-time salaried workers.

• Automatic Update of Threshold Every Three Years

The new regulations also update these salary thresholds automatically every three years (as opposed to the proposed annual updating of the threshold) to prevent the levels from becoming outdated. The update of the threshold is based on inflation occurring during the three year period.

• Changes Are Effective on December 1, 2016

Finally, rather than the standard 60 day implementation period, the new regulations are set to go into effect on December 1, 2016, which gives employers a little over six months to react to the new changes.

With the new rules going into effect, employers need to review what changes these regulations will make to the classification of their exempt employees. In many cases, employers will need to either reclassify some employees to nonexempt or increase their salary in order to meet the threshold requirement. Recognizing ahead of time which employee classes will change is vital for employers to control or eliminate increased costs and potential liability for non-compliance.

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