

LIGHTHOUSE BEACON

Important News from Lighthouse Legal Counsel, LLC

Action Steps:

- Identify all exempt employees (including HCEs) making less than the new thresholds
- Track their time to aid in developing the right compensation model going forward
- Compare the cost of giving salary increases to meet or exceed the new thresholds to the cost of projected wages plus overtime if the salary test is no longer met and exempt status is lost
- Determine how non-exempt pay rates will be set, i.e. will you simply divide current weekly salary by 40 or will you attempt to preserve current compensation level by lowering hourly rate to compensate for anticipated overtime?
- For HCEs, analyze whether they would meet the full duties test of another exempt category as an alternative to bumping up their compensation
- Consider operational/staffing changes that might mitigate overtime obligations



DOL Releases Final Regulations Changing FLSA “White Collar” Exemption Regulations

Effective Date of Changes is December 1, 2016

Today, the federal Department of Labor (DOL) released its long-awaited final regulations concerning overtime exemptions under the Fair Labor Standards Act (FLSA). By way of background, the so-called “white collar” exemption regulations were last updated in 2004. On March 13, 2014, President Obama issued a Presidential Memorandum directing DOL to update these regulations, citing misuse of exemptions intended to apply only to well-compensated workers. In response, DOL published a Notice of Proposed Rulemaking on July 6, 2015. The written comment period closed on September 4, 2015. The resulting regulations, issued today, have an effective date of December 1, 2016.



Further Questions?

Understanding and complying with the Fair Labor Standards Act is at once very challenging and absolutely vital. This is an area of increased scrutiny by government regulators and plaintiffs' attorneys alike. If you have any concerns about the proper classification of your employees under the FLSA or any other compliance issues, call Jack Dolan, Esq. at Lighthouse Legal Counsel, LLC at (508) 332-1492.

Disclaimer

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KEY PROVISIONS OF THE NEW REGULATIONS:

- *New Salary Threshold*

Under the new regulations, the new salary threshold is \$913/week (\$47,476/year). This is slightly more than double the current salary threshold of \$455/week, but less than what was originally proposed by DOL.

- *Salary Threshold to Increase Automatically Every 3 Years*

DOL had proposed automatic annual increases to maintain the threshold level at the 40th percentile of full-time salaried workers in the lowest-wage Census region. The final regulations call for automatic increases at 3 year intervals.

- *Threshold for Highly Compensated Employee (HCE) Exemption Increased*

The threshold for this exemption is now \$134,004/year, up from \$100,000. This is consistent with DOL's original proposal to set this threshold at the 90th percentile of full-time salaried workers.

- *No Changes to the Duties Test*

While DOL's initial proposal did not include specific changes to the duties tests, DOL solicited comments on this area of the exemption regulations. Consequently, many commentators speculated that the final regulations might include changes in this area. The regulations issued today do not effect any changes to the duties tests.

- *New Regulations Effective as of December 1, 2016*

Generally, the implementation period for regulations of this sort is 60 days. DOL extended this in this instance. The regulations will go into effect as of December 1, 2016.