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Are You Prepared for the New Overtime Rules?

Is your business ready to meet the challenge of new federal overtime regulations now in the works? The initiative is called, “A Fair Day’s Pay for a Fair Day’s Work,” and it is moving forward fast.

In March, 2014, President Obama signed a Memorandum directing the United States Department of Labor (DOL) to update the regulations that address the wages and overtime of white collar workers, including executive, professional, and administrative personnel. Of particular interest to the President are the threshold numbers for payment of overtime, which have not been updated since 1975. In June of this year, President Obama penned a blog for the [Huffington Post](#) to introduce his plan to update overtime rules for workers across the nation.

[Information](#) provided by the DOL notes that 62 percent of full-time salaried workers were under the overtime threshold in 1975. Today, those workers make up about 8 percent of the workforce.

Legislative approval is not needed to update the overtime rules—the proposed changes can be enacted through executive order. The comment period for the [proposed revisions](#) ended on September 4, 2015, and the rule revision is expected in early 2016.

What do the new regulations mean for employers?

If you are an employer, what do these new regulations mean for you? The new rules aim to update the Fair Labor Standards Act (FLSA). According to the DOL, the revisions would affect about five million workers in this country.

Some key points of the new rules include:

- **Changes to the threshold for overtime pay:** Right now, the threshold for overtime pay for full-time, salaried workers is \$23,660 annually/\$455 per week or \$11.375 hourly. The poverty line for a family of four is \$24, 008. Revision by the DOL would reset the overtime threshold to about \$50,440 annually, \$970 per week or \$24.25 hourly in 2016. Worker’s who make under that threshold become eligible for overtime pay. The change is expected to improve the salary picture for less educated or experienced workers, women, and minorities.

- **Changes in the threshold for highly compensated employees (HCEs):** Rule revisions also impact overtime earned by HCE's. The total annual compensation required to exempt a HCE is expected to increase to \$122,148, or about the 90th percentile of weekly earnings of a salaried worker.
- **Automatically updating thresholds:** The rule revisions are expected to bring overtime thresholds for full-time, salaried workers into line with the current economy. Moving forward, the DOL is developing a process to systematically keep threshold numbers relevant. Two potential methods for doing that include aligning exemptions with the 40th and 90th earning percentiles, or automatic adjustments based on rates of inflation registered by the Consumer Price Index.

The proposed DOL rule revisions discuss the duties test for exempt workers, and the potential use of nondiscretionary bonuses as part of a standard salary requirement. However, the DOL does not propose those subjects be addressed by regulatory action at this time.

While the rule revision seems straightforward, compliance may not be so easy. Similar rules were put into place in California years ago, and businesses are still struggling with budgeting for overtime and policies to reduce after-hours work.

Take the right compliance actions today

Although the final rule has not been announced, take the right action now to be sure your human resources policies are in place later. We can help you work through the required stages including:

- Review and create human resource policies and process to schedule and track employee time
- Align company expectations concerning overtime at all levels
- Assess and acquire web- and mobile-friendly tools for time-keeping and maintenance of adequate records
- Update handbooks and procedure manuals
- Develop an ongoing process to monitor compliance
- Create internal brand communications to convey information about rule revisions, and how each worker is affected

Be ready when rule changes are announced—contact us to find out how McCloskey Partners can help you comply with these and other regulatory revisions. Contact McCloskey Partners, LLC at 215-716-3035 or info@mccloskeypartners.com