



## **Employment Law Update**

### **Changes to the Salary Requirement for Overtime Exemption Coming on December 1, 2016**

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## **The U.S. Department of Labor Is Raising the Minimum Salary That Must Be Paid to an Employee Exempt from the Overtime-Pay Requirements.**

The United States Department of Labor has issued its final regulations making significant changes in the regulations under the Fair Labor Standards Act (FLSA) which govern overtime pay and exemptions from overtime-pay requirements. The most significant change is that under current law, an exempt employee must, among other requirements, be paid on a salary basis with the salary exceeding \$455 per week or \$23,660 per year. That minimum salary amount is being changed to **\$913 per week** or **\$47,476 per year**. This means that after December 1, 2016, any exempt employees being paid less than \$47,476 per year must either get a raise to that amount or be treated as non-exempt and paid the required overtime rate (1.5 times the regular hourly rate) for any hours exceeding 40 hours in a work week. Employers should review their employees to see if there are any exempt employees whose exemption status may be affected by this change. Although the rule changes no existing job-duty requirements for the various overtime exemptions under the FLSA and is only changing the salary basis requirement, it is also a good opportunity to review employees classified as exempt to ensure that those employees are properly classified as exempt. We would be glad to assist or answer questions concerning these changes or wage-and-hour issues in general.

There is also a change in the amount to be a highly compensated employee, which is one exempt classification that requires a higher amount of pay but fewer other requirements to be exempt. The amount was \$100,000 per year, but it will be raised under the new regulations to \$134,004 per year. These amounts will be automatically adjusted every three years beginning January 1, 2020, according to the labor statistics on earnings of full-time salaried workers.

If you have questions about this or with any other employment issues, please contact us.

Here are links to additional information:

- Actual regulations (508 pages – first 497 are explanation, and the other 11 or 12 pages are actual changes to existing regulations beginning on page 497) - <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-11754.pdf>
- DOL announcement - <https://www.dol.gov/WHD/overtime/final2016/>

- Fact Sheet – <https://www.dol.gov/WHD/overtime/final2016/overtime-factsheet.htm>
- Q&A - <https://www.dol.gov/WHD/overtime/final2016/faq.htm>
- DOL Guidance for Business - <https://www.dol.gov/whd/overtime/final2016/general-guidance.pdf>
- DOL Small Business Compliance Guide - <https://www.dol.gov/WHD/overtime/final2016/SmallBusinessGuide.pdf>
- DOL Guidance for Non-Profits - <https://www.dol.gov/whd/overtime/final2016/nonprofit-guidance.pdf>
- DOL Guidance for Higher Education - <https://www.dol.gov/whd/overtime/final2016/highered-guidance.pdf>

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