

DOL Issues New Overtime Payment Rules

On May 18, 2016, the U.S. Department of Labor (DOL) announced a final rule regarding overtime wage payment qualifications for the “white collar” exemptions under the Fair Labor Standards Act (FLSA). The final rule is effective Dec. 1, 2016.

The final rule increases the salary an employee must be paid in order to qualify for a white collar exemption. The required salary level is increasing from \$23,660 to \$47,476 per year and will be automatically updated every three years.

The salary level for the highly compensated employee exemption will increase from \$100,000 to \$134,004 per year. However, these individuals must receive at least the full standard salary amount each pay period (\$913 per week, \$1,826 bi-weekly or \$3,956.33 per month) on a salary or fee basis (not counting nondiscretionary bonuses and incentive payments).

To qualify for the white collar exemption, an employee must meet a salary basis test, a salary level test and a duties test in order to be exempt. The final rule does not modify the duties test employees must meet to qualify for a white collar exemption.

The DOL estimates that this final rule extends overtime protection to approximately 4.2 million workers who are currently exempt under the white collar rules and clarifies overtime compensation eligibility for another 5.7 million white collar workers.

Given the significant increase in the salary level requirement, employers will need to increase employee salaries, or reclassify certain employees as either exempt or nonexempt, solely based on their salary level. Employers must become familiar with the new rule and identify which employees will be affected. Employers should reclassify employees as exempt or nonexempt, as necessary, by Dec. 1, 2016.

Employers should also consider communicating any work schedule changes to affected employees before that date.

Finally, employers should evaluate whether implementing new timekeeping practices and training for managers and supervisors on the new requirements is necessary.

DID YOU KNOW?

Bathroom access rights for transgender employees is a hot-button topic. On May 2, 2016, the Equal Employment Opportunity Commission (EEOC) published [guidance](#) for employers.

In its guidance, the EEOC states that denying transgender employees the right to use the bathroom that corresponds with their gender identity is a violation of Title VII of the Civil Rights Act.

Employers should review their personnel policies to make sure they are in compliance with Title VII and the most recent EEOC guidance.

EEOC Finalizes Wellness Rules Under ADA and GINA

On May 16, 2016, the Equal Employment Opportunity Commission (EEOC) issued final rules that describe how the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) apply to employer-sponsored wellness programs.

The final ADA rule provides guidance on the extent to which employers may offer incentives to employees to participate in wellness programs that ask them to answer disability-related questions or to undergo medical examinations.

The final GINA rule clarifies that an employer may offer a limited incentive to an employee whose spouse provides information about his or her current or past health status as part of the employer's wellness program.

The final rules' notice requirements and incentive limits apply as of the first day of the first plan year that begins on or after Jan. 1, 2017 (for the health plan used to determine the incentive amount).