

NEWSLETTERS

Changes In Overtime Rules Are Coming – Are You Ready?

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On June 30, 2015, the U.S. Department of Labor (“DOL”) issued a Notice of Proposed Rulemaking (“Notice”) that will dramatically increase the number of employees eligible to receive overtime compensation. The DOL estimates that 4.6 million additional workers will become eligible for overtime compensation as a result of these changes. Logistics companies should take special note of these changes.

There are a number of tests to consider when deciding if any employee is eligible for overtime compensation. The Notice amends the salary basis test for determining eligibility for overtime compensation. Currently, to be ineligible for overtime compensation, you must earn a salary of at least \$455 per week or \$23,660 per year. The Notice will more than double this threshold to \$970 per week or \$50,440 per year. The Notice would also institute automatic increases so the salary level increases with inflation. The practical impact is that all salaried employees making less than \$50,440 may now be eligible for overtime compensation. Employers still must look at what the employee’s job duties are to determine overtime eligibility.

Although the precise effective date is unknown, it is expected that the Notice should become effective in mid to late 2016. We anticipate that the DOL will give employees a short period of time to make the necessary changes to implement the Notice.

In my experience, many logistics companies have quasi-clerical employees who are dispatchers or are in air or sea import or export type positions. Logistics companies often do not pay employees in these positions overtime compensation. Most of these positions will not pay enough under the new proposed regulations to avoid the requirement of being paid overtime. Upon analysis, the duties of these positions often times do not qualify for the administrative exemption to the overtime requirement; this is the only realistic exemption that would apply to those positions. This will be a special challenge for Logistics employers.

All employers will face complicated issues as a result of the Notice. These issues will impact budget, operations, staffing and company resources. Planning now for these changes will enable a smooth transition to comply with the Notice. Part of this planning should include an audit of all job classifications, including your import and export positions. Although such an audit should be customized for the specific employer, some things to

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look for and decisions to make should include the following:

- Are there currently exempt employees who earn less than the new salary level in the proposed rule? Does it make sense to pay these employees more to maintain exempt status or should they be converted to non-exempt?
- If converted to non-exempt status, how will you manage hours of work to reduce overtime liability? Do you need to hire additional employees?
- How are you tracking hours of employees? Does that need to change; do you need to gather information regarding hours worked for planning purposes?
- Since the salary test will be adjusted each year based on inflation, what impact will that have on the organization?
- Reclassifying an employee as non-exempt will likely have a negative impact on employee morale. Employers need to develop a communication plan and strategy to address this; and
- Employers should use the Notice as an opportunity to correct the classification of any exempt jobs that may not have met the duties test.

Change is coming. Prudent employers will plan ahead and be ready.

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