



Employment Policies Alert: **New DOL Rule Published**

This morning, President Obama announced publication of the Final Rule of the Department of Labor ("DOL") updating overtime regulations under the Fair Labor Standards Act ("FLSA"). As anticipated by our last newsletters, this Final Rule will require overtime pay to many workers who did not previously qualify for overtime. One key provision of the new rule is that the salary threshold determining which employees qualify for overtime pay will more than double, to \$47,476 a year (\$913 per week) from the prior threshold of \$23,660 a year. Under the Final Rule, employees who earn less than \$47,476 per year will be eligible for overtime pay - regardless of their job duties. Employees who earn more than this threshold also may qualify for overtime, depending on their job duties. The duties test has not changed under the new rule.

The Final Rule also raised the threshold for highly compensated employees ("HCEs") to \$134,004 a year, from the previous threshold of \$100,000. This means that the employees who meet this threshold will be subject only to a minimal showing to demonstrate that the employee is not eligible for overtime.

In addition, the Final Rule establishes automatic updates to the salary and compensation levels every three years, to maintain the same percentiles. It also amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments, such as commissions, to satisfy up to 10% of the new standard salary level.

The Final Rule goes into effect on December 1, 2016. This means that the new thresholds will be effective on that date. The future automatic updates to the thresholds will occur every three years, with the first automatic update to occur on January 1, 2020. We recommend immediate review of all employees to determine whose exempt status will change, and whose duties will need to be assessed to determine whether they need to be paid overtime. Due to the automatic updates, employers need to be vigilant about regular review of employees' duties, and to maintain clear records of payroll.

If you have questions regarding this new rule or need assistance to review your current policies, please contact our office. We look forward to working with you!

Warm regards,

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