



CLIENT ALERT

GET PREPARED FOR CHANGES TO THE OVERTIME EXEMPTIONS

The U.S. Department of Labor (“DOL”) has proposed regulations raising the minimum salary that must be paid to an employee in order for that employee to be considered exempt from the overtime pay requirements of the Fair Labor Standards Act (“FLSA”). The DOL has proposed raising the minimum salary for an exempt worker to \$970 per week (\$50,440 per year), from the current minimum threshold of \$455 per week (\$23,660 per year). The New York state salary threshold would therefore also rise to that level, up from \$675 per week.

The DOL is also proposing to raise the “highly compensated exemption” minimum salary threshold from \$100,000 to \$122,148.

These regulations are anticipated to take effect in January 2016. In preparation, we suggest you take the following steps now:

1. Determine how many of your employees are currently exempt and earning less than \$970 per week.
2. Examine how many hours per week those employees are working.
3. If you don’t have records of those employees’ hours, have the employees begin to complete daily timesheets.
4. For employees that are currently exempt and earning less than \$970 per week, establish an hourly rate, such that the hourly rate will result in comparable pay to what the employee is currently earning. In other words, if an employee is earning a \$45,000 salary, set their hourly rate so that their first 40 hours of work plus anticipated overtime will equal approximately \$45,000.
5. For employees that are on the cusp of \$970 a week, consider raising them to \$970 per week and demanding more of them (because they are being paid more).
6. Determine how many of your employees are currently subject to the “highly compensated employee” exemption but are making less than \$122,148 per year. Determine whether to (a) raise the employees’ salaries to \$122,148 per year; (b) pay them by the hour with overtime; or (c) restructure their jobs with added exempt duties so that they fit within another exemption, such as the executive or administrative exemption, where the minimum salary threshold will be \$50,440 per year.

If you have questions or would like additional information, please contact Amanda M. Fugazy (afugazy@egsllp.com), Paul P. Rooney (prooney@egsllp.com), Valerie J. Bluth (vbluth@egsllp.com) or the primary EGS attorney with whom you work.

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THE EMPLOYMENT LAW PRACTICE GROUP

Amanda M. Fugazy, Esq.

Paul P. Rooney, Esq.

Valerie J. Bluth, Esq.

Allison Vieyra, Paralegal

1345 Avenue of the Americas, New York, NY 10105

Telephone: (516) 801-8139/(212) 370-1300

afugazy@egsllp.com | www.egsllp.com