

EMPLOYMENT SERVICES ALERT

6/30/15

DOL Releases Proposal to Expand Overtime

The U.S. Department of Labor (DOL) unveiled its proposal to broaden federal overtime regulations that will significantly increase the amount of employees entitled to overtime pay. Under the current Fair Labor Standards Act (FLSA), which governs minimum wage and overtime pay, employees who perform certain required job duties and are paid \$455 per week, or \$23,660 annually on a salary basis, are exempt from the FLSA's minimum wage and overtime pay requirements. These exemptions apply to executive, administrative, professional, outside sales, and computer employees (commonly referred to as the "white collar" classifications), to the extent that these employees also meet the required "duties" test as set forth in the FLSA.

The DOL's proposal would more than double the minimum salary requirement for the exemption to \$970 per week or \$50,440 per year beginning in 2016. This amount is equal to the 40th percentile of weekly earnings for full-time, salaried workers. The DOL is also proposing that the salary threshold be automatically updated to keep pace with inflation. While the DOL had been considering altering the "duties" test applicable to the "white collar" exemptions, it has decided not to do so in this revision.

The draft proposal was sent to the White House Office of Management and Budget on June 30, 2015, and the public will have the opportunity to submit comments regarding the proposal. The DOL will review these comments before issuing a final rule. Please contact a Roetzel attorney if you are interested in submitting a comment regarding this proposal.

An increase to the salary threshold for overtime pay exemption would come at an economic cost to employers. Employers will need to consider whether raising the salary of currently exempt employees, hiring additional employees, or capping hours worked, among other alternatives, would help to mitigate the economic effects of this proposal. Other policies that currently distinguish between exempt and nonexempt employees, such as policies related to timekeeping, benefits, and bonuses, will also need to be reviewed and updated, as will job descriptions and record keeping and retention policies and procedures.

Doug Spiker
Practice Group Manager,
Employment Services
216.696.7125 | dspiker@ralaw.com

Karen Adinolfi
330.849.6773 | kadinolfi@ralaw.com

Matt Austin
614.723.2010 | maustin@ralaw.com

Aretta Bernard
330.849.6630 | abernard@ralaw.com

Robert Blackham
216.615.4839 | rblackham@ralaw.com

Lindsay Bouffard
614.723.2026 | lbouffard@ralaw.com

Eric Bruestle
513.361.8292 | ebruestle@ralaw.com

Denise Hasbrook
419.254.5243 | dhasbrook@ralaw.com

Paul Jackson
330.849.6657 | pjackson@ralaw.com

Doug Kennedy
614.723.2004 | dkennedy@ralaw.com

Alex Kipp
216.820.4204 | akipp@ralaw.com

Nathan Pangrace
216.615.4825 | npangrace@ralaw.com

Marcus Pringle
216.696.7077 | mpringle@ralaw.com

Emily Wilcheck
419.254.5260 | ewilcheck@ralaw.com