

EMPLOYMENT SERVICES ALERT

3/14/14

President Obama Orders Revisions to Rules on Overtime Pay

President Obama signed a memorandum yesterday that has the potential to greatly expand the number of employees who qualify for overtime pay under the Fair Labor Standards Act (FLSA). The President's Memorandum is designed to raise the wages of low salaried workers, such as fast food restaurant managers and convenience store managers. Currently, most of these employees are classified as executive or professional employees and are therefore exempt from the overtime pay requirements of the FLSA. These employees are exempt as long as their job duties meet the requirements for the specific exemption and they are paid at least \$455 per week. The President seeks to increase the \$455 per week salary level; however, the exact increase is unclear. California and New York have thresholds of \$640 and \$600 per week, respectively. Additionally, the President's Memorandum referred to FLSA exemptions as "outdated." As such, it is expected that the regulations issued by the Department of Labor (DOL) will alter the "primary duty" test for FLSA exemptions, or even abandon the "primary duty" test in favor of more stringent standards.

The DOL will be responsible for issuing the new regulations, which will be subject to public comment. It will be important for employers and business organizations to review the proposed regulations and submit comments to the DOL during the comment period. In the meantime, employers may want to proactively audit their workforce and job descriptions.

Once the DOL issues new regulations, we will be in a better position to advise as to the impact of this executive order. For further information, please contact any of the following Roetzel attorneys:

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