New Department of Labor Final Rule Updates Overtime Regulations for Salaried Employees

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On May 18, 2016, the Department of Labor released important details of the Final Rule updating overtime regulations for white collar workers under the Fair Labor Standards Act (FLSA). A fact sheet regarding these rule changes can be found on the Department of Labor website, here.

The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt from the FLSA's overtime regulations. Specifically, the Final Rule:

1. Raises the threshold for overtime exemption to $913 per week, more than double the current level of $455 per week, or $47,476 annually;
2. Raises the total annual compensation requirement for highly compensated employees subject to a minimal duties test to $134,004, up from $100,000;
3. Establishes a mechanism for automatically updating the salary and compensation levels every three years. The exemption salary level will be pegged to the 40th percentile of full-time salaried workers in the lowest-wage Census region; the minimum for highly compensated employees will be tied to the 90th percentile of full-time salaried workers in the lowest-wage Census region; and
4. Amends the salary basis test to allow employers to use nondiscretionary bonuses, commissions and other incentive payments to count towards up to 10 percent of the new standard salary level.

The Final Rule contains no changes to the existing job duties tests to distinguish between overtime-eligible workers and those who may be exempt.

The Department of Labor released several fact sheets addressing the impact of the Final Rule on Higher Education, as well as Non-Profits and State and Local Government.

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Client Tip: *Institutions must review the Final Rule and relevant Fact Sheets and initiate a plan to review the exemption status of positions, audit pay practices and to implement changes necessary to ensure compliance with the Final Rule on or before December 1, 2016.*

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