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Employment Law Update

The Department of Labor Announces Final White Collar Exemption Rule

Today, the U.S. Department of Labor ("DOL") announced the final version of its changes to the salary threshold for the "white collar" exemptions under the Fair Labor Standards Act ("FLSA"). The final rule raises the minimum salary threshold required to qualify for the white collar exemptions from \$23,660 per year (or \$455 per week) to \$47,476 per year (or \$913 per week). The rule also raises the overtime eligibility threshold for highly compensated workers from \$100,000 per year to \$134,004. This rule will take effect on December 1, 2016. In addition to the salary requirements, employees will still need to meet the duty requirements for the various white collar exemptions, which remain unchanged under the new rule.



David B. Dibble

The standard salary level is set at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region in the United States, which is currently the South. The income level for highly compensated employees is set at an amount equal to the 90th percentile of annual earnings for full-time salaried workers nationally. The salary thresholds will be automatically updated every three years to ensure that they stay at these percentile benchmarks.

The final rule also amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level, so long as employers pay those amounts on a quarterly or more frequent basis.

Employers should evaluate how these changes may affect their employees. This is a significant change that will impact most employers, so employers should consider whether each of their employees classified as "exempt" will continue to satisfy the salary-level test. We recommend consulting with your lawyer when making classification determinations.

If you have any employment-related questions, please contact a member of our firm's Labor and Employment Section.

The Employment Law Update features selected developments in the law. It should not be relied upon for substantive employment law advice. Contact your attorney to resolve any legal questions.