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2020 Overtime Changes: Three Actions to Take Now

Most employees must be paid a minimum weekly salary to avoid eligibility for overtime payment. The U.S. Department of Labor recently increased the minimum salary that must be paid to remain exempt from overtime, effective Jan. 1, 2020. Notably, positions not subject to the salary minimum threshold, such as certain teaching professionals and practitioners of law or medicine, are not impacted.

To prepare for 2020, employers should take the following three actions now:

1. Identify positions no longer exempt from overtime under the new rule and determine whether to increase salary to meet the new salary minimum or convert such positions to overtime-eligible, hourly positions. As of Jan. 1, 2020, the minimum salary threshold for overtime exemption increases from \$455 to \$684 per week, annualized to \$35,568 per year, with certain nondiscretionary bonuses and incentive payments used to satisfy up to 10 percent of the standard salary level, provided payments are made on an annual or more frequent basis. For the highly compensated employee exemption, the total annual compensation requirement increases from \$100,000 to \$107,432. More details regarding the new rule, along with helpful compliance guides, are available at the Department of Labor's 2019 overtime website (<https://www.dol.gov/whd/overtime2019/>).
2. For positions converted to overtime-eligible, explore options to reduce the potential for overtime hours such as re-allocation of duties or seasonal hiring of part-time assistance. Consider whether to prohibit or limit remote access for employees newly eligible for overtime.
3. Plan communications for converted employees, recognizing they may resist the time tracking and work hour constraints associated with overtime-eligible positions. Remind converted employees and their managers regarding procedures for seeking pre-approval of overtime, reporting all hours worked and limiting the need for overtime work.

Notably, certain states have determined that the new federal rule does not go far enough in favor of employees, and employers should continue to monitor applicable state and local laws for changes as well. California and New York already require an even higher salary than the new federal minimum to maintain overtime exemption in many instances. Pennsylvania continues to consider its own overtime rule overhaul, although it withdrew the current iteration from consideration at a hearing this week. New Jersey, like many other states, also has

announced its own review of state overtime laws for potential changes.

While the new federal rule does not include automatic increases to the salary minimum for successive years, employers should anticipate more changes to overtime rules at the federal or state level in coming years. ■



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