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How Employers Can Ensure Compliance with FLSA Overtime Rules

We recently reported that the United States Department of Labor revised the regulations governing overtime exemptions under the Fair Labor Standards Act (FLSA). The new rule takes effect on . The new rule increases the minimum salary level at which employees may qualify for the "white collar" exemptions from $455 per week ($23,660 per year) to $684 per week ($35,568 per year).

Exempt computer employees must also be paid at the increased salary level, or employers may pay them at the applicable minimum hourly rate of $27.63 per hour. The new rule also allows employers to count certain nondiscretionary bonuses and incentive payments, up to 10% of an employee's salary, towards the required minimum salary.

Employers should take the following actions to help ensure a seamless transition and to maintain compliance with the FLSA overtime regulations:

1. Evaluate employee compensation data, focusing on employees who make between $455 and $683 per week. Determine whether non-discretionary bonuses may be used to reach the required minimum salary.
2. For those employees who do not meet the required minimum salary, consider increasing their salary to $684 per week, or reclassifying them as nonexempt employees. Employers should take into account more than simply the cost of any salary increases; for example, assess the workloads of the employees, and weigh the cost of the salary increases against the cost of paying overtime.
3. Update the employee handbook to ensure that timekeeping, meal and rest breaks, and similar policies comply with the new rule.
4. Communicate these changes to affected employees, as well as appropriate managers, supervisors, and human resources personnel.

As employers must be prepared to implement these changes as of January 1, 2020, it is critical to begin this process now.

If you have any questions about the new rule or would like assistance in revising your policies or evaluating your employee classifications to ensure compliance with the new rule, please contact Robert S. Driscoll, Katie D. Triska, or your Reinhart attorney.

POSTED:

Dec 18, 2019

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