

WEBSTER, CHAMBERLAIN & BEAN, LLP | NONPROFIT ALERT

NON-PROFIT ORGANIZATIONS ARE IMPACTED BY THE UPDATED OVERTIME RULES ISSUED BY THE DEPARTMENT OF LABOR

The Department of Labor issued its overtime regulations, which are set to take effect on December 1, 2016. The amendments change which “executive, administrative, and professional” employees are exempt from the Fair Labor Standards Act (“FLSA”) requirement to pay overtime when an employee works more than 40 hours in a workweek. The result is that fewer employees will qualify for exemption from the requirement to pay overtime.

The FLSA requires most employees to pay overtime at one and a half times their regular pay rate to employees who work more than 40 hours per workweek. The FLSA contains exceptions to this requirement for certain classifications of employees, including executive, administrative, and professional employees. To be exempt from the overtime requirements, employees must be paid a predetermined fixed salary of at least \$913 per week (\$47,476 per year) (until December 1, 2016, the salary is \$455/week/\$23,660 a year). If the employee’s salary does not exceed this new threshold, the employee must be paid overtime for all hours worked over 40 hours per workweek. The new salary requirements will be automatically increased every 3 years, beginning on January 1, 2020.

The FLSA provides that certain highly compensated employees are not eligible for overtime. Previously, the minimum highly compensated salary threshold was \$100,000. On December 1, 2016, that minimum threshold goes up to \$134,400.

The amendments also allow an employer to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the new standard salary level.

The amendments do not trump state overtime laws and if these are more favorable to employees, they will continue to apply.

Prior to December 1, 2016, non-profit organizations should analyze the impact of these increases to determine whether any previously exempt employee must now be paid overtime and/or whether it is advisable to adopt policies to limit overtime hours.

See <https://www.dol.gov/whd/overtime/final2016/> for more information.

* * *

Heidi K. Abegg | habegg@wc-b.com | 202-785-9500

Disclaimer: This article is for informational purposes only and does not provide legal advice, nor does it create an attorney-client relationship with you or any other reader.