

## Final Changes to Federal Overtime Regulations

After much anticipation, on May 18, 2016, the White House and the U.S. Department of Labor announced the publication of a final rule updating federal overtime regulations that will expand the number of employees eligible for overtime pay. The changes, which apply to all public agencies and their employees, will go into effect on December 1, 2016. We previously alerted you to the expected changes to these regulations on May 12, 2016.

The Fair Labor Standards Act (FLSA) entitles employees to time-and-a-half pay when they work more than 40 hours in a week. However, this general rule has a significant exception for employees working in a bona fide executive, administrative, or professional capacity (sometimes referred to as the "white collar" exemption). Employees in these categories do not receive any additional pay beyond their regular salary regardless of the number of hours worked per week. Presently (and until December 1, 2016), to qualify for any of these exceptions, employees must be paid on a salary basis and earn at least \$455 week (\$23,660 annually). In other words, employees below this threshold are entitled to overtime pay even if they are working in an executive, administrative or professional capacity.

The new rules increase the salary threshold to \$913 per week (or \$47,476 annually), thus extending overtime protections to a greater number of once-exempt employees. The rules further mandate that the salary threshold be automatically updated every three years beginning January 1, 2020. Notably, however, no changes were made to the "duties test" for executive, administrative and professional employees. The changes in the new rule will not impact the partial exemption for police officers and firefighters under Section 207(k) of the law.

We advise our clients in the coming months to identify employees in exempt positions who are currently earning less than \$913 per week and determine whether to: a) increase their salary beyond the newly increased threshold; or b) reclassify them as non-exempt and begin monitoring their hours and overtime to ensure compliance with the FLSA.

As always, employers have an affirmative obligation to ensure that their employees are properly classified.

If you have any questions concerning these upcoming changes or the FLSA in general, we encourage you to contact any member of the firm's Labor and Employment Practice Group at 617.556.0007.

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