

BREAKING NEWS – ACTION REQUIRED: Final Salary-Level Rule is Released

5/18/2016

Practices: Employment, Labor & Benefits

All Employers Must Review Exempt Salary Levels to Ensure Compliance Sign-up For a Webinar

Executive Summary:

This morning, the U.S. Department of Labor ("DOL") released its Final Rule which updates and increases the minimum salary required in order for an executive, administrative or professional employee to qualify for an exemption from the overtime pay requirements. Effective December 1, 2016, an exempt employee must be paid at least \$47,476 per year in order to be considered an exempt employee. If the employee is not paid \$47,476 per year, their salary must either be increased to meet this amount, or the employee must be paid overtime for all hours worked after 40 hours in a given workweek. All employers are affected.

Sign up for a webinar on the Final Rule and its implications.

Background: On July 6, 2015, the DOL published a proposed rule that was designed to update, modernize and simplify the regulations governing exemptions under the Fair Labor Standards Act ("FLSA"). Today, after receiving over 250,000 comments, the DOL published its Final Rule. **The Final Rule is effective December 1, 2016;** therefore, all employers must review their salary-levels to ensure compliance. Generally, in order to be considered exempt from the overtime rules, employees must meet all three requirements:

- (1) Must be paid a fixed salary regardless of the quality or quantity of work performed ("salary basis test");
- (2) The amount of salary paid must meet a currently specified amount (\$23,660) ("salary level test"); and
- (3) The employee's job duties must primarily involve executive, administrative, or professional duties ("duties test").

Under the Final Rule, the DOL is significantly changing the Salary Level Test.

Key Provisions of the Final Rule: Effective December 1, 2016:

- (1) The salary needed to be considered an exempt employee will increase from \$23,660 to \$47,476 per year;
- (2) The salary needed to be considered a highly compensated employee will increase from \$100,000 to \$134,004 per year;

(3) The Rule automatically updates these salary levels every three years beginning January 1, 2020;

(4) Employers will be able to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level.

Masuda Funai Webinars: This is a major change. As a result, Masuda Funai will be sponsoring webinars on the Final Rule and the steps necessary to ensure compliance.

Wednesday, June 15, 2016 12:00 – 1:00 Central Time

For more information about this or any other employment law topic, please contact Frank Del Barto, Chair of the Employment, Labor & Benefits Group, at 847.734.8811 or via email at fdelbarto@masudafunai.com.