



JULY CHANGE IN FEDERAL OVERTIME RULES MAY COST EMPLOYERS

By Louis A Storrow, Esq.

Employers are in for a shock this July when Federal overtime rules change and many salaried supervisors will become eligible for overtime. The new rules will more than double the current minimum salary necessary to exempt a salaried employee from overtime under the Fair Labor Standards Act (FLSA), from **\$23,660 to \$50,440** (for 2016). It's the first increase in the "salary basis" minimum for executive, administrative and professional exemptions since 1975. A special rule to qualify "highly compensated" employees, established in 2004 for those making \$100,000 or more, will also change, raising the threshold for highly compensated employees to \$122,148.

Both numbers would climb automatically every year based on increases in the Consumer Price Index for All Urban Consumers (CPI-U), issued by the Bureau of Labor Statistics.

A further complication is the possibility that the final rule will be made *retroactive* to January 1, 2016, meaning some employers may already be paying too little to treat some of their employees as "exempt." These employers could owe unspecified overtime to supervisors who work more than 40 hours per week but earn less than \$50,440 a year.

California employers face an additional complication, as the new Federal minimum is higher than the minimum required under California regulations. For many years California employers have looked only to the state standard of 2 times the full-time minimum wage (annual salary of at least \$41,600 in 2016) and have not cared about the federal salary minimum.

But California has unique requirements that include double time for hours over 12 in a day and for work over 8 hours on the seventh day of a workweek. The new rules will render some California supervisors (those earning between the state and federal minimums) eligible for weekly overtime at time and a half, but not the daily overtime or double time required by California law!

If you're not lost yet, consider California's coming increases in the minimum wage, which will also raise the minimum required salary for state exemptions. In 2020, when California's minimum wage hits \$13 an hour, the minimum salary for California exemptions could be higher than the federal standard, depending on the CPI.

For those employers (both in and out of California) who use an outside payroll service, the need for math skills will be limited, but for planning and budgeting purposes, employers will have to keep current on minimum exempt salaries.

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