

New Overtime Rules To Shake Things Up Effective December 2016

by Beth C. Rogers, Esq.

The new overtime regulations that kick in December 1, 2016 are being called “the most significant change to the economy in a decade.” About 4.2 million workers will now qualify for overtime — not to mention the 8.9 million workers who are currently misclassified. Meaning, there’s some choppy waters ahead.



Understanding the policies, procedures and the law are crucial when it comes to preparing for a change like the new FLSA overtime regulations. Neglect one area, and you open the door to lawsuits. Give all three the proper attention they deserve, and you’re going to be in pretty good shape.

According to Daniel Abrahams, author of The Employer’s Guide to the Fair Labor Standards Act,

“Even very savvy companies with significant HR resources end up with wage and hours lawsuits on their hands. Most wage and

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hours violations aren’t willful, and it’s not that kind of thing that happens only to ‘bad employers’.”

In other words, don’t think that just because your employees seem happy and enjoy coming to work, that you’re not at risk here, especially with the new rulings on the horizon.

Whether you’ve dealt with a wage and hours suit in the past or not, preparation is crucial. It’s impossible to say how much of an increase we’ll see in FLSA suits with the new overtime regulations in December, but you can safely assume that with at least 4.2 million workers suddenly become eligible for overtime, and given the upward trend in wage and hours suits

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 out of order

“We know the human brain is a device to keep to the ears from grating on one another.”

- Peter de Vries

“When the mind is thinking. It is talking to itself.”

- Plato

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... Continued from first page

We've seen over the past 15 years, employers need to take this seriously. The time and expense involved in these suits can be enormous.

When it comes to the new overtime regulations, here are the basics you need to know:

The New Overtime Rule

Prior to December 1, 2016, if an employee is classified as "exempt" and earns more than \$23,660 annually, he or she doesn't qualify for overtime pay. After December 1, 2016, that threshold increases to \$47,476, with additional increases scheduled every three years. According to the Department of Labor, the new rule is intended to correct misclassifications, improve employees' work/life balance, and raise the salary threshold above the poverty level.

Like most rulings, there's room for interpretation, and a number of options for applying the new regulations to your business. Abrahams said,

"There are quite a few resources for employers to understand how the new regulations apply to their situation. The most important thing is to dedicate the time and resources to monitor how the changes will impact your business—on an ongoing basis. Ignorance isn't a defense when it comes to potential lawsuits."

However, he also cautioned,

"The FLSA's wage and hours provisions are a complicated, shifting target. And the law is being reinterpreted in new ways all the time through court rulings, making it very difficult

to stay on top of every nuance in real time. Make sure your HR team has an ear to the ground when it comes to pivotal court cases in your industry, and enlist legal counsel to help you stay abreast of changes that may impact you."

In other words, don't try to go this alone. The sheer volume and complexity of the FLSA is staggering — and the nuances involved in the way it applies to your business make it critical that you have HR on point, and a legal expert in your corner.



Create and enforce good policies that meet federal, state, and local requirements when it comes to wage and hours matters in your business.

It's critical to have wage and hours policies that are comprehensive — and outline expectations and guidelines concerning shift standards, comp. time, general business hours, timekeeping expectations, the process for approving overtime, the consequences for unauthorized overtime, and any other issues that govern how employees are paid and what the company expects of its workforce when it comes to hours.