

SYTA 2016



Fair Labor Regulations Act

“Exempt Employees: Final Rule”

What could the new regulations mean for your business?

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Important Notice

“The information presented provides a general overview based on our research. Please note the information presented does not carry the force of law or legal opinion. It is highly recommended that business owners seek additional counsel to ensure complete compliance with the new Fair Labor Standards Act regulations, Final Rule.”

Final Rule: What is it?



In 2014 President Obama directed the Department of Labor to update and modernize the regulations governing the exemption of executive, administrative and professional employees from the minimum wage and overtime protection of the Fair Labor Standards Act. Such employees are often labeled as “exempt”.

The “Final Rule” is effective December 1, 2016.

What is an “exempt” employee?

Simply put: an employee whose role has satisfied three tests and thus has been paid a salary versus hourly wage and is “exempt” from overtime.

The Three Basic Tests

- ✓ The employee is must be paid a predetermined and fixed salary that is NOT subject to reduction because of variations in the quality or quantity of work
- ✓ The employee must be paid a minimum salary (currently \$455 per week)
- ✓ The employee must pass the “duties test”

Current vs New

Scenario: Administrative Exemption

CURRENT SALARY REGULATION

- Salary of no less than \$455 per week (\$23,660 annual)



NEW SALARY REGULATION

- Salary of no less than \$913 per week (\$47,476 annual)
- Up to 10% of salary can be paid through non-discretionary bonuses and/or incentive payments. However, the final annual salary **MUST** meet the minimum salary level

What should you be doing now?

- Update job descriptions as titles don't count when determining exemption status. **Job duties do!**
- **Properly classify employees**
- Identify current employees that are classified as exempt who are making less than \$47,476 annually
- Determine how close they are to the threshold level
- Determine if it is more cost effective to raise to threshold level or pay overtime (must still be paid minimum threshold)

Considerations

- If raising an “exempt” employee to threshold level and a business awards salary increases each year, the increase will be based on new threshold. May want to consider the use of bonuses in future years versus percentage increases.
- November General Election could affect ruling. It’s possible!

Resources

A good resource for small business entities can be found at:

www.dol.gov/whd

Small Entity Compliance Guide to the Fair Labor Standard's Act's "White Collar Exemptions"

For more in-depth information visit:

www.dol.gov/whd/overtime/final2016