



November 2016

UPDATE - Overtime Rules Change Effective December 1, 2016 Has Been Blocked

As we previously reported, the new overtime rules were set to go into effect on December 1st. These new rules would have doubled the Fair Labor Standards Act (FLSA) salary threshold for exemption from overtime pay from \$23,660 to \$47,476 with automatic increases every three years. It is estimated that this would have made an additional 4.2 million Americans eligible for overtime pay. Critics have argued that these rules will adversely impact small businesses and non-profit employers, and that many companies would just cut employees' hours or demote staff.

Last week, a federal judge in Texas issued a preliminary injunction blocking the New Overtime Rules from going into effect on December 1st pursuant to a lawsuit filed by 21 states claiming that the Department of Labor overstepped its authority by setting the new salary levels without first obtaining Congressional approval. This will allow employers to continue with the status quo until such time as the courts rule on the validity of the DOL's authority to enact the overtime rule changes.

Now many employers may be asking "what should we do now?" Basically, as long as the injunction is in effect, you do not have to pay overtime in accordance with the new rules. Any proposed personnel changes or reclassifications designed to comply with the new rules do not need to be implemented or can at least be postponed, at your discretion.

In the event that the injunction is lifted or the courts overturn the ruling and uphold the new overtime rules, you should keep accurate records of the hours worked by employees, especially those who are exempt from overtime pay under the old rules but will be classified as non-exempt under the new rules. There is a risk that if the new regulations are upheld that you would be responsible for overtime pay retroactively. However, many believe that with the new Trump administration, the new overtime rules will be permanently suspended or reissued with lower salary thresholds that are more favorable to small businesses and non-profit organizations.



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