



FLSA – What You Need to Know

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Speaker Introductions

Kimberly Orsolits, SPHR, SHRM-SCP, Manager, Business Operations Services HR Consultant

Kim provides guidance to business leaders on human capital matters such as compliance and regulatory issues, employee relations, staffing and retention, performance management, and overall human resources strategy. With more than 20 years of generalist experience, she has served in many roles to include SVP of Human Resources and Regional HR Director where she has written HR manuals, created performance management programs, developed HR strategy and provided executive leadership for the overall HR function.

J.D. Dietzen, CPA, Manager, Business Operations Services CFO

J.D. has been in public accounting for more than eight years. He serves clients through our outsourcing division, focusing on profitability analysis, staffing models, forecasting, and budgeting. His primary focus is managing the outsourcing practice in our Spokane office, and he is involved in tax preparation and planning for businesses and high net worth individuals.



Learning Objectives

- At the end of this session, you will be able to:
 - Recognize FLSA requirements for compliance
 - Explain the FLSA overtime and salary threshold change
 - Summarize the “duties” test for the white collar exemption categories
 - Outline considerations and strategies for adjusting to the regulatory changes



Agenda

- Overview of Fair Labor Standard Act (FLSA)
- Department of Labor Changes to Salary Threshold and Highly Compensated Employees Regulations
- How to Prepare and Best Practices
- Business options and Impact



FLSA Overview

- Act that establishes:

Minimum Wage

Overtime Payment

time and ½ in excess of 40 hour in a workweek

Recordkeeping & Posting Requirements

Child Labor Standards



FLSA Overview

Minimum Wage

Minimum Wage: federal \$7.25 per hour

Regular Rate of pay includes: wages, commission, some bonuses, tips, room & board

Illegal Deductions: reduces earning below minimum wage, for primary benefit of employer



FLSA Overview

- Overtime Pay– non-exempt employees must receive one and one-half times regular rate of pay for all hours worked over 40 in a workweek
- A workweek is 7 consecutive 24 hour periods or 168 hours
- Review state and industry comp time requirements



FLSA Overview

- To qualify for exemptions 3 tests must be confirmed:



Salary Level



Salary Basis



Job Duties



FLSA Overview

- Exemptions

Executive Employees

Administrative Employees

Professional Employees

Outside Sales Employees

Computer Employees



FLSA Overview

- Recordkeeping Requirements:



Accurate record of hours worked



Payroll records for 3 years and wage computations for 2 years



Posting requirements



Change is coming.....December 1, 2016



Final Ruling to Overtime Regulations

- To increase salary levels for the standard “White Collar” Exemptions from \$23,660/\$455 to \$47,476/\$913
- To increase the Highly Compensated Employee Exemption from \$100,000 to \$134,004 per year
- System to automatically update salary threshold every three years



Non-Discretionary Bonuses/Incentive Pay

- Employers will be permitted to allow non-discretionary bonuses to satisfy up to 10% of salary requirement (\$822 per week)
- Forms of compensation promised to employee as part of compensation package (i.e., commissions, production bonuses)
- Must be paid at least quarterly



Occupations Most Affected by Proposed Changes

- Retail Store Managers/Assistant Managers
- Support/Administrative functions
- Technology Industry - entry level
- Accountants & Auditors
- Office Managers
- First Line Supervisors
- Hospitality Industry



Jobs Impacted in Nonprofit Industry

- Due to the variation in budget many positions could be affected
 - Executive Director/C level
 - Program Managers
 - Fundraising Managers
 - Retail Managers
 - Accounting
 - Support/Administrative functions (i.e., Accounting/Finance, Marketing & HR)



DOL Projected Impact of Regulations

- 4.2 million currently exempt employees will immediately switch to nonexempt
- \$1.2 billion a year will be paid to employee in either OT compensation or increased wages to meet salary threshold
- More income for working Americans
- DOL believes the new salary standard is more appropriate level setting it above the poverty level for a family of four



Other Areas of Impact

- Businesses will incur additional cost associated with coming into compliance
 - Time spent
 - Payroll system changes
 - Communication material
 - Training costs



Best Practices

- Establish & train on time/recording system
- Create well-defined work week, pay cycles and policies
- Require ALL employees to complete a timesheet and acknowledge accuracy
- Develop job descriptions and review annually



Best Practices

- Remember to consider the position NOT the person when determining exemption
- Create an approval process for overtime purposes
- Limit working from home for non-exempt employees
- Put controls in place to prevent “off the clock” work



Preparing for Overtime Regulation Changes

PLAN!



Preparing for Overtime Regulation Changes

Review of Current Exempt Positions

Ensure Job Duties Meet Exempt Requirements

Analyze Labor Cost Implications

Review Benefit Variations



Preparing for Overtime Regulation Changes

**Consider Affects of Changes
on Morale and Turnover**

Develop Communication Plan

Review Timekeeping Process & Policies

Require ALL Employees to Track Actual Hours

Consider Impact to Admin Costs



Example: Calculating Hourly Wage

- Expected Hours for position: 2,200
- Current Salary: \$44,000
- 2,200 hours less 2,080 (annual hours based on 40 hours per week) equals 120 hours of anticipated OT
- $120 \text{ hours} \times 1.5 = 180$
- $2,080 + 180 = 2,260$ (total hours that will be paid)
- $\$44,000 / 2,260 = \19.47 (hourly wage)



Suggestions

- Create a model to calculate various options
 - If we increase spending by 5%, where does that get us?
 - If employees are within a certain dollar range of the new salary level (\$3,000 for example), what's the cost of moving them to exempt?
 - What's the impact on our profitability?
- If typical compensation process is in January, consider moving up to November or early December this year
- Do NOT assume this will cost your company or organization more money - think outside the box (but inside the law)



For More Information

- Visit the Department of Labor website
 - Wage and Hour – Fact Sheets:
<https://www.dol.gov/whd/overtime/final2016/>
 - For State specific information check out HR411 on same website
- Contact CliftonLarsonAllen



Questions?



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