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Authors:



Daniel A. Schwartz
(860) 251-5038
dschwartz@goodwin.com



Gary S. Starr
(860) 251-5501
gstarr@goodwin.com



Henry J. Zaccardi
(860) 251-5737
hzaccardi@goodwin.com

Overtime Pay Changes on the Horizon

With great fanfare, President Obama announced a plan to potentially raise the incomes of white collar employees. The proposed federal regulation would make white collar employees eligible for overtime pay after 40 hours worked if their salary is less than \$970 per week or \$50,440 per year. The change is being implemented through Department of Labor (“DOL”) regulations, which are currently under review, and would not go into effect until after a comment and review period. The proposed regulations only change the minimum guaranteed salary for those who have been considered exempt from overtime up to now. The other aspects of the test for exemption, which relates to the duties performed, are not covered by the proposed regulations. The change essentially raises the weekly amount which was last set in 2004 to what an inflationary increase would have done.

In Connecticut, the threshold has been higher than the federal level, but unless that is changed, federal law will be controlling on this aspect of the test for the exemption.

Additionally, in a major change from the past, the DOL is proposing automatic increases in the minimum salary level. For the first time the minimum salary amount will be set to rise on its own without further regulatory action.

As a practical matter, the proposed regulations mean that employers who have employees classified as salaried and exempt from overtime making less than \$50,440/year need to review the status of these employees and consider how to respond when the time arrives. Fortunately, the new regulations are not likely to be implemented before 2016, so employers will have time to study and understand the final regulations when they are issued and be able to plan accordingly. DOL has said it expects the change will result in as many as 5 million employees becoming eligible for overtime.

While it is likely that the rule will, in fact, be implemented as proposed, it is not entirely clear how employers will react. Some may choose to control workers hours to keep them at or below 40 hours per week, reduce workers’ hours or change their compensation systems



to either embrace the change or seek to avoid the effects of the change. Employers might reduce wages or set an hourly rate that, when overtime is taken into account, is no higher than what the worker was receiving when classified as salaried and exempt from overtime.

Questions or Assistance:

If you have questions regarding either of these changes, please contact Daniel Schwartz at dschwartz@goodwin.com or (860) 251-5038, Gary Starr at gstarr@goodwin.com or (860) 251-5501 or Henry Zaccardi at (860) 251-5737 or hzaccardi@goodwin.com.

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One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1875 K St., NW - Suite 600
Washington, DC 20006-1251
202-469-7750

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

12 Porter Street
Lakeville, CT 06039-1809
860-435-2539

www.shipmangoodwin.com