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Final Rule Changing Overtime Regulations Published By DOL

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Today, the U.S. Department of Labor (DOL) released its final regulations making changes to the overtime exemptions under the Fair Labor Standards Act (FLSA). We have been watching these regulations for many months now, wondering when they will be released and if the final regulations would respond to the opposition and opinions of the many who see these regulations, and particularly the new salary threshold, as too steep and a hardship.

For now, here are the key points:

1. The Rule takes effect on December 1, 2016;

2. The duties tests have not changed;

3. The salary threshold increases from $23,660 to $47,476 a year, or from $455 to $913 a week, slightly less than the original proposal;

4. The salary threshold will be updated every 3 years, rather than every year;

5. Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to $134,004;

6. Non-discretionary bonuses and incentive payments now may count toward up to 10 percent of the new salary level.

Otherwise all the overtime rules, tests and calculations remain the same. Affected employers now have six (6) months to make any changes necessary. We will continue to review these regulations and provide further guidance.

This Client Alert was prepared by Geoffrey Wermuth. If you have any questions about this issue, please contact Kathy Murphy or the attorney responsible for your account, or call (617) 479-5000.

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