

Employment Law Alert – Changes to Overtime Rule Delayed and Possibly Ended

As employers are aware, the Obama administration made changes to the salary-based exemption regulation requiring employers to pay more than double the amount of salary to employees in order to take advantage of the exemption from paying overtime. The changes to the regulation required employers to pay salary-based exempt employees \$913 per week on a salary basis instead of paying \$455 per week on a salary basis. To be classified as a salary-exempt employee (one that is not required to be paid overtime), the employee has to meet the duties test and be paid on a salary basis. The regulations did not change the duties test – the first part of the salary-based exemption. This change was to go into effect on December 1, 2016. As a result employers are in the process of or have already made significant changes to employee compensation.

However, late in the afternoon on Tuesday, November 22, 2016, a federal judge in Texas issued an order delaying the implementation of the changes to the salary-based exemption to the overtime rules under the Fair Labor Standards Act (FLSA). In order to overrule the judge's decision, the Department of Labor would have to continue to fight the case in Texas until a final injunction is issued, at which point it could file an appeal. However, this all takes time and it may be that the Trump administration will elect not to fight and will not pursue the Obama regulations.

What does this mean to you?

- If you have not made changes or informed employees of your intended changes, you do not need to do anything for now. Keep checking Rees Broome, PC's website and email blasts.
- For employers that have made changes already, such as changing employee classifications or raising rates, you have a decision to make. Should you take back a large salary increase and risk the negative effects on employee morale?
- For employers that made changes because it determined during the process of implementing the changes that employees were being improperly paid on a salary-basis, should not be changed. Keep in mind that the only change to the regulations was an increase in the amount of salary that had to be paid.

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