Proposed Overtime Rules: Calculating Real Costs And Risks To Your Organization

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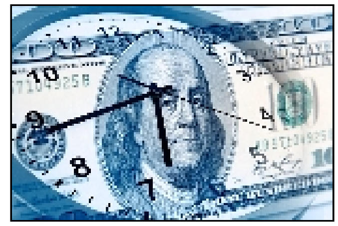

The Department of Labor's recent announcement of proposed changes to the threshold wage amount for paying overtime from $23,660 to $50,440 has generated a lot of questions from employers. Because the average salary gross in the United States is less than $50,000, most employers will be affected.

For more information on what the change will mean to all employers in general, please log on to read "Big Change Is Coming: The Impact And Risk New Overtime Rules Present Employers".

Although changes can still be made to the proposed rules, every employer must prepare if the rules become effective.

The proposed changes are intended to address the executive, administrative, professional, and highly compensated employee exemptions from overtime pay. The proposal revises the minimum salary level required to meet an exemption. It is not known whether the Final Rule will make changes to the "duties" tests.

To help, I want to apply the new rules to a scenario to show you the impact it will bring to your organization.

Let's say Joe works for you. Joe is a five-year employee, a supervisor who moved up the ranks and receives $40,000 per year or $769.23 per week. He works on average 50 hours a week. He does not have to clock in and clock out like he did before he became a supervisor and he likes that part of his job in case he hits traffic coming to work. He also gets the benefit of going to his health care provider and his children's school events without being docked pay. Because he is exempt, he is not paid overtime.

So how will the new rules impact you and Joe?

Using 52 weeks in a year, Joe works 2600 hours in a year (52 x 50) of which 520 would be overtime hours (anything over 40 hours per week) if he were not exempt.

If you use a 50-hour week (the average number of hours he works per week) his rate is approximately $15.38 for every hour under and $23.07 for every hour over 40 per week.

If Joe works the same number of hours under the proposed rules, under which he would not be exempt, at $15.38 per hour (plus $23.07 per overtime hour), his yearly take home will be $51,996.40 per year…a $11,996.40 per year increase or approximately a 29.91 percent raise and $1,556.40 over the $50,440.00 threshold level.

Note that the rate of inflation in 2014 was 1.6 percent, so Joe's raise is substantial.

To determine how the new rules will impact you, you must first list every exempt employee that makes less than $50,440 per year.

Next, you must determine how many hours on average those employees work per week. To do this with any accuracy, they will need to clock in and to clock out for a certain test period of time, if they have not clocked in or out in the past.

Suddenly tracking your exempt employees' time will generate questions, but you simply need to let the employees know that to comply with expected new regulations, you have to know the number of hours that they work. It is also a good time to explain that clocking in and clocking out is more than likely in their immediate futures.

If you don't want to do that, you could calculate the hourly rate by a standard workweek of 40 hours per week. However, if you have an employee who works more than 40 hours per week on average, using this formula will increase their take home pay substantially, if they work the same number of hours as before, as in Joe's example.

Once you know numbers, you have to look at the business options…do you give Joe a jump in pay; do you cut Joe's pay; do you cut the number of hours Joe works; or do you hire someone else to replace Joe or replace some of Joe's hours?

You could give Joe a raise above the threshold, so he stays exempt or pay him overtime where he will earn even more money. Obviously, Joe would be happy with the raise, but can you afford it or will you need to raise prices?

If you cut Joe's hourly rate and ask him to work 50 per week so he stays at $40,000 per year, then Joe will be unhappy. His pay was cut; he works more than a standard workweek; he has to clock in and clock out when he goes to the doctor and to his children's school events. If other employers did not cut pay of their similarly situated employees, you can expect Joe to start looking elsewhere for work.

You could also manage Joe's hours, so that he does not work more than 40 hours per week. That would leave Joe more time for his family, but you lose the productivity. You could hire a part-time employee to make up the productivity difference, but can you get a part-time employee for around $10,000 per year (approximately what you would have to pay Joe in overtime)? In today's economy, possibly, but with every new employee, you not only add wages, but taxes, benefits, insurance, and training costs.

Finally, you could terminate Joe and try to find a cheaper replacement. That can save money in the short term, but it also means loss of Joe's experience and productivity, and increases your chance of litigation because most lawsuits occur after termination.

The proposed changes will affect most employers, large and small. How you adjust to the changes can impact wages, pricing, turnover, and litigation exposure. For that reason, you need to consider the impact of the rules on your organization as soon as possible, and involve your legal counsel to help you navigate these changes.
