Harry Garmon

From: Kevin Tortoriello <kevin@adaptstaffing.net>
Sent: Wednesday, August 12, 2015 5:25 PM
To: Harry Garmon
Subject: The New Overtime Rules are coming.

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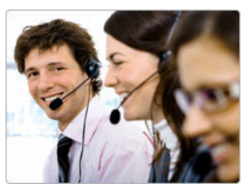
Staffing Solutions Newsletter

AUGUST 2015

Hi Harry

The Staffing Solutions Newsletter is designed for hiring managers and HR decision-makers. Our objective is to deliver helpful, timely, valuable information that will enhance your staffing effectiveness ... plus save you time and money.

On July 6, 2015, the Department of Labor announced a proposed rule that would extend overtime protections to nearly 5 million white collar workers within the first year of its implementation. Predictably, there is likely to be both intended and unintended consequences . . . we will explore both in this issue.

We'll be respectful of your time with a concise, focused editorial style ... and a touch of appropriate humor. Of course, your comments and suggestions to increase the value of the newsletter are strongly encouraged.

Sincerely,

Kevin & T.J. Tortoriello

In This Issue

THE NEW OVERTIME RULES

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THE NEW OVERTIME RULES

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A Tale of Consequences & Unintended Consequences

Department of Labor Announcement

On July 6, 2015, the Department of Labor announced a proposed rule that would extend overtime protections to nearly 5 million white collar workers within the first year of its implementation. The justification as stated in the **DOL announcement:**

"Failure to update the overtime regulations has left an exception to overtime eligibility originally meant for highly-compensated executive, administrative, and professional employees now applying to workers earning as little as $23,660 a year. For example, a convenience store manager, fast food assistant manager, or some office workers may be expected to work 50 or 60 hours a week or more, making less than the poverty level for a family of four, and not receive a dime of overtime pay. Today's proposed regulation is a critical first step toward ensuring that hard-working Americans are compensated fairly and have a chance to get ahead."

In support of the proposed measure, Ross Eisenbrey,

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vice president of the Economic Policy Institute, said, "Salaried people who are currently working overtime will work fewer hours. Their hours will be shifted to hourly workers, paid less, who need the work. It's a win win for the workforce."

The foregoing sentiments are not shared by all. More on that in a bit. First, let's look at the details of the proposed expansion of overtime rules.

What's the Deal?

The key element is a raise in the threshold at which salaried workers qualify for overtime pay. Currently, that benchmark sits at $455 for a 40 hour workweek. It would be bumped by more than 200% to $970. Do the math and you find that a relatively modest management salary of a few dollars north of $50,000 now qualifies for time and one-half overtime pay for each hour worked in excess of 40 hours per week. Under the current rule, most salaried workers are not eligible for overtime once their salary exceeds $23,660 annually.

That's how 5 million white collar workers are affected. Questions include *how* will they be affected ... more compensation, less hours, change in status from exempt to non-exempt, or?

Intended Consequences

"Of course, nothing helps families make ends meet like higher wages...We still need to make sure employees get the overtime they've earned."

- President Barack Obama, State of the Union Address, January 20, 2015

The President's comment sums up the issue as he sees it. In a **White House Briefing Statement** the issues were described as follows:

Middle class economics means that a hard day's work should lead to a fair day's pay. For much of the past century, a cornerstone of that promise has been the 40-hour workweek. But for decades, industry lobbyists have bottled up efforts to keep these rules up to date, leaving millions of Americans working long hours, and taking them away from their families without the overtime pay

DID YOU KNOW?

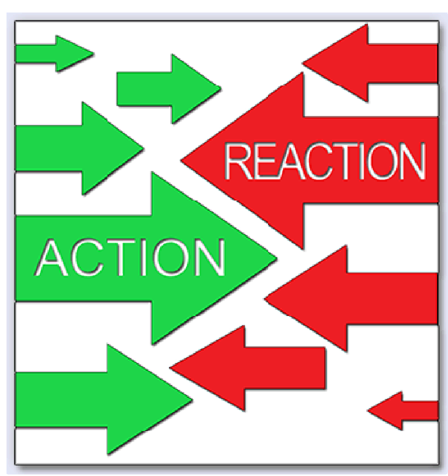
$50,000,000 in back-pay settlements were imposed last year by the EEOC (Equal Employment Opportunity Commission) and OFCCP (Office of Federal Contract Compliance Programs).

that they have earned. Business owners who treat their employees fairly are being undercut by competitors who don't.

Among the concerns cited is the erosion in the value of overtime pay due to inflation. The estimate is that at current overtime thresholds, overtime pay is 40% of its former purchasing power. At $455 per week, or $23,660 per year, the current threshold is below the poverty level. The solution is to raise the threshold, plus prevent a future erosion of overtime by automatically updating the salary threshold based on inflation or wage growth over time.

Unintended Consequences

Business critics of the proposal contend that any regulatory change to wages or salaries invariably leads to a re-evaluation of staffing needs and allocation. Especially hard hit will be small/mid-size businesses and those engaged in retail and hospitality. Initial reactions from the National Retail Federation is typical. Below is a summary. **Click here for the full report.**



For every action there is a reaction. That's so in this instance as well. Employers have a number of possible ways to deal with this extension of overtime regulation. Here's the rundown on a few.

Change how staffers are paid: The issue is particularly difficult in businesses that rely heavily on managers. Managers could be switched to hourly status or raise their salaries to exceed the anticipated new threshold. In the former approach, hourly pay rates would be set to maintain both the number of hours currently being worked annually to yield the same compensation level they now enjoy.

Hire additional workers: This step would include a limitation on the number of hours an employee may work, i.e. not to exceed 40. That means more employees, but all on straight time. The other advantage is one of cost-effectiveness for employers as new workers may command less compensation.

Eliminate perks: Bonuses and personal tasks on company time may be curtailed ... perhaps with a corresponding negative reaction in employee morale and productivity.

Increased productivity: This may be accomplished by a more strict budgeting of overtime. For example, by limiting time managers may engage in non-company activities on company time can save time for productive tasks at straight time rates. Another that is being contemplated is limiting hourly workers' access to email. That means to not download email to their personal devices and not accessing email after hours. A West Coast firm has gone so far as to shut down email on weekends and between 10 pm and 6 am on weekdays.

Summary

The DOL invites written comments through September 4, 2015. That said, the fact is the change is coming. So business decision-makers need to explore the likely effects on their enterprises and formulate strategies plus specific plans to best deal with the realities and minimize any potential blows to profitability, productivity and makeup of the workforce.

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