

UNDERSTANDING THE NEW OVERTIME REGULATIONS

UNDER THE FAIR LABOR STANDARDS ACT

MORE GOVERNMENT REGULATION OF YOUR BUSINESS

- ❖ In 2014, President Obama directed Department of Labor to update regulations defining which white collar workers should now be entitled to overtime pay
- ❖ On May 18, 2016 , Department of Labor Issued new overtime regulations extending overtime pay protections to many workers currently classified as exempt and not receiving overtime pay for hours worked over 40
- ❖ Effective December 1, 2016, the salary threshold for overtime has been increased from \$455 to \$913 per week (or from \$23,660 to \$47,746 annually) ; also increased Highly Compensated Employee (“HCE”) threshold from \$100,000 to \$134,004

OVERTIME FUNDAMENTALS

If Employee Paid On Hourly Basis

Overtime Must Be Paid for Hours Worked in Excess of 40 Hours in Workweek

Commonly Referred to as “Nonexempt”

OVERTIME FUNDAMENTALS

SALARY AND DUTIES TEST

Salary Test means: same amount of money paid on a weekly basis regardless of quality or quantity of work performed by worker so long as salary meets minimum thresholds of federal law

Duties Test means: worker must perform work that qualifies as either

- Managerial,
 - Administrative,
 - Professional, or
 - Computer Professional
- as defined by the federal law

- If BOTH tests are satisfied, then employee exempt and ineligible for overtime pay for hours worked over 40
- Same rules applies under Washington State law

BEFORE AND AFTER: SALARY REQUIREMENT

REQUIREMENTS BEFORE DECEMBER 1, 2016

- **Current Salary Threshold: \$23,660**
- **No Automatic Cost of Living Increase**

REQUIREMENTS AFTER DECEMBER 1, 2016

- **New Salary Threshold: \$47,476 (FYI: Increases to \$51,000 in 2020)**
- **Duties Unchanged**

EMPLOYER OPTIONS BY DECEMBER 1, 2016

- Increase minimum salary for exempt employee making less than the new threshold to \$47,476
- Change current exempt employees to nonexempt and pay for time worked in excess of 40 hours each workweek
- Reduce or eliminate overtime hours worked; hire extra workers if needed; re-evaluate telecommuting practices (working from home)
- Decrease pay allocated to base salary (provided minimum wage requirements satisfied) and start paying overtime for hours worked in excess of 40 [not recommended – recordkeeping nightmare]
- Restructure work assignments moving duties from newly nonexempt employees to those whose salary is increased to remain exempt
- Incentives and Bonuses/Catch-Up Pay

WHAT TO DO NEXT?

- ✓ Explain to Employees
- ✓ Wage and Hour Audit – Review Exempt Employee’s Salary and Duties
- ✓ Review Overtime Policies and Usage
- ✓ Review Timekeeping Practices
- ✓ Make Necessary Adjustments to Employee’s Work Assignments and/or Pay on or before December 1, 2016

GOOD LUCK

CALL IF YOU HAVE ANY QUESTIONS