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New Overtime Rules Limiting Application of “White Collar” Exemptions on Hold

The U.S. Department of Labor’s (DOL) new rules for application of the Executive, Administrative and Professional Employees overtime exemptions set to go into effect this Thursday, December 1, 2016 are now on hold. On November 22, 2016, less than 10 days before the effective date, a federal judge in the Eastern District of Texas issued a nationwide preliminary injunction postponing implementation of the new rules indefinitely.

The new rules would have modified the Federal Fair Labor Standards Act’s requirement that employers pay overtime to employees who are not otherwise “exempt.” Currently, to qualify for one of these so-called “white collar” exemptions, employees must:

- Be paid a salary (a predetermined and fixed amount not subject to reduction based upon variation in quality or quantity of work performed) – the “salary *basis* test;”
- Be paid a minimum salary amount (currently \$455 per week or \$23,660 per year) – the “salary *level* test;” and
- Primarily perform certain executive, administrative or professional duties as described by the DOL – the “*duties* test.”

The new rule did not change any of the current duties tests, but would have nearly doubled the existing salary level threshold from \$455 per week (\$23,660 annually) to \$913 per week (\$47,476 annually).

These new rules will not take effect as anticipated on December 1st. They may, however, become effective at a later date. For now, employers may continue to follow existing overtime regulations until a final decision is reached. Employers should act now to review and reconsider any planned salary increases and/or reclassification of employees as hourly. Employers who have already taken action in preparation for the new rules may well want to leave those decisions in place. Reversing salary increases or reclassifying employees as exempt could prove difficult for employers to implement without adversely impacting workplace morale.

If you have questions or if you would like assistance with this or any other matter, please do not hesitate to contact us.