



THE SURVEY GROUP



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SURVEY UPDATE

In Process

2016-2017 Holiday Survey

2016 Turnover Survey

Results Available Online

Members log in to view results for those surveys in which your organization participated.

2016 Benchmark Compensation Survey

2016 Employee Programs & Practices Survey

2016 Compensation Planning Survey

2015 Board of Directors Survey

2015 - 2016 Holiday Survey

2015 Turnover Survey

2015 Employee Benefits Survey

UNDERSTANDING AND WORKING WITH THE NEW FLSA LEGISLATION

Bruce McLaughlin, Founder/CEO, The Survey Group

As the mandatory compliance date for the new FLSA changes comes closer, this updated regulation is causing confusion for some employers. Basically the new law changes the regulation for “white collar” workers and broadens the group of employees entitled to minimum wage and overtime pay protections when they work long hours. What are these changes and what do they mean to you?

KEY CHANGES

FORMER REGULATION	NEW REGULATION
Not entitled to overtime pay for exempt, full year employees who are paid on a salary basis at not less than \$455/week or \$23,660/yr.	Revised threshold is now \$913/week or \$47,476 annually for full year workers. Employees earning less than this are eligible for premium pay (overtime) for all hours worked in excess of 40 in any given work week regardless of their “classification”.
No specific automatic adjustments to compensation levels.	Establishes a mechanism for automatically updated compensation levels every 3 years (starting Jan 2020).
No provision to consider bonuses, incentives, or commissions toward the standard salary level.	Allows employers to use nondiscretionary bonuses, incentives and commissions to satisfy up to 10% of the new standard salary level provided those monies are paid quarterly or more frequently.

UPCOMING SEMINAR

Leave Law Update
September 20, 9:00 - 3:00

SURVEY AND SEMINAR SCHEDULES

SOME SPECIFIC GUIDELINES

No change:

- Job titles NEVER determine exempt status. Exempt status is based upon specific job duties that meet the requirements provided in the regulations. There are no changes to the current job duties tests.
- Private employers cannot satisfy their overtime obligations by providing comp (compensatory) time and must pay overtime-eligible employees an overtime premium for hours worked over 40 in a given workweek.

Click [here](#) to view the schedule for all TSG surveys and seminars.

- The FLSA continues to exempt certain kinds of covered employees from the minimum wage and overtime requirements, including bona fide executive, administrative, and professional employees such as computer and outside sales who qualify for exemptions.
- When state and federal law (FLSA) apply, the employee is entitled to the most favorable provisions of each law. For example: Massachusetts' minimum wage is higher - currently \$10/hr. - than the Federal wage of \$7.25/hr. The Massachusetts' minimum wage increases to \$11.00 per hour on January 1, 2017.

WHAT OPTIONS DO EMPLOYERS HAVE TO IMPLEMENT THE NEW REQUIREMENT?

- You may increase the salary of your employees who meet the job duties test for exempt status to the new minimum, i.e., \$913/week to avoid paying overtime.
- Pay your employees earning less than the minimum requirement (again \$913/week) the overtime premium of one and a half times their hourly rate for all hours worked over 40 in a given workweek.
- Reduce or eliminate any overtime hours.
- Although not recommended, you may REDUCE the base pay of your employees earning below the minimum, ensure that they earn at least minimum wage, and then add pay to their compensation to account for overtime hours until they reach the minimum of \$913/wk.
- Combine some of these options.

OTHER INFORMATION - Time Tracking and Bonuses

Although new overtime-eligible employees are not required to "punch a clock," you are advised to keep records of hours worked by these employees so that you are certain to pay them the wages they are owed.

You may consider nondiscretionary bonus and incentive payments such as commission (but NOT discretionary bonuses) to satisfy up to 10% of the revised weekly salary minimum so long as such payments are made on a quarterly or more frequent basis.

Nondiscretionary vs. Discretionary Bonuses:

- Nondiscretionary bonuses and incentive payments (including commissions) are forms of compensation promised to employees to induce them to work more efficiently or to remain with the company. Examples include bonuses for meeting set production goals, retention bonuses, and commission payments based on a fixed formula.
- Discretionary bonuses are those for which the decision to award the bonus and the payment amount is at the employer's sole discretion and not in accordance with any preannounced standards. An example would be an unannounced bonus or spontaneous reward for a specific act.

NOTE: This new FLSA requirement requires that your mandatory posters be updated to reflect the changes.

HOW SOME EMPLOYERS ARE HANDLING THE NEW REQUIREMENTS

- Give raises to exempt employees who regularly work overtime and earn slightly below the new standard salary level, in order to maintain

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their overtime-exempt status so that you do not have to pay the overtime premium.

- For employees who rarely or almost never work overtime hours, employers may simply choose to pay the overtime premium whenever necessary.

NOTE: Nothing in the rule requires employers to change employees' pay to hourly from salaried, even if the employees' classification changes from exempt to overtime eligible.

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