



H.R. UPDATE

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Overtime Rule Issued: Exempt salary threshold increases under new Fair Labor Standards Act

The Department of Labor issued the long-anticipated final overtime rule May 18 and included an exempt employee threshold of \$47,476. Workers who earn as much as \$47,476 a year (\$913 a week) will have to be paid overtime, even if they're classified as a manager or professional. All employers will have to comply with the changes made to the overtime regulations of the Fair Labor Standards Act (FLSA) by Dec. 1, 2016. The Department of Labor will increase the salary threshold every three years.

The current minimum threshold for California employers is a minimum monthly salary of no less than two times the state minimum wage for full time employment (\$3,466.67 per month). The new Federal regulations will override the California threshold on December 1, 2016. The salary must be a predetermined amount.

The most common White Collar - Fair Labor Standards Act exemptions are the executive, administrative, professional and computer programmer. The employee must meet both a duties test (perform certain duties) and a salary basis test (be paid a fixed minimum amount per week that is not subject to reduction based on the quality or quantity of work performed).

To Do: Contact your HR Alternatives consultant to discuss the steps employers can take now:

- Identify exempt positions where employees earn less than \$47,476.
- Decide which positions to increase the salaries above the new salary level of \$47,476.
- For employees reclassified to hourly, determine what tasks those individuals perform and how many hours they will work. These employees will be required to track time worked.
- Identify whether benefits will change for workers moving from exempt to nonexempt.

Piece-Rate Workers: Rest and Recovery Periods and Other Nonproductive Time

Effective January 1, 2016, AB 1513 adds a new section 226.2 to the Labor Code concerning how to compensate piece-rate workers for mandated rest and recovery periods and other work time that does not generate piece-rate earnings. Piece-rate compensation is based on paying a specified sum for completing a particular task or making a particular item.

This administration-sponsored law does two things.

- Going forward, it establishes pay requirements for mandated rest breaks, recovery periods and other nonproductive time, including related wage stub requirements.
- Looking backward, it provides a short window of time for employers to make back wage payments to workers for previously uncompensated or undercompensated rest and recovery periods and other nonproductive time in exchange for relief from statutory penalties and other damages.

Back payments are required for the time period of July 1, 2012, through December 31, 2015. Employers must notify the Department of Industrial Relations by July 1, 2016, of their election to make the back payments and make the required back payments by no later than December 15, 2016.

To Do: Contact your HR Alternatives consultant to identify if your company should continue piece rate based on the change in regulations.

As the primary HR Consulting firm for small and mid-sized employers throughout Southern California our goal is to support the growth of your business and navigate the challenges that can prevent you from accomplishing your objectives. HR Alternatives has been solving workplace issues since 1993.