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Update to May 2nd Client Alert - New Overtime Rules Issued Today

SERVICE LINE

Labor and Employment

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Update to **May 2nd Client Alert**:

On May 18, 2016, the Department of Labor released its much anticipated final rule updating the FLSA's overtime provisions with respect to the "white collar" exemptions, and the result is mostly good news for employers. The new salary basis will be set at \$913 per week (\$47,476 annually), almost \$3,000 less than the level proposed by the DOL last July. Another welcome development is that the DOL is giving employers until December 1, 2016 to be in compliance, a significant delay over the 60-day window which was expected. The one piece of bad news is that the total compensation level required for the highly compensated employee exemption will be set at \$134,004, which is somewhat higher than anticipated, although this exemption applies to far fewer employees than the standard white collar exemptions. As anticipated, the new rule also provides a mechanism for automatically revising both the standard salary basis and the total compensation level (for highly compensated employees) to keep pace with wage growth, although these revisions will occur only once every three years instead of annually as had initially been proposed. A final change is that employers will be permitted to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the new standard salary basis. This previously unannounced change will provide a bit of flexibility to employers as they adapt to the new overtime landscape.

For the most part, these final rule changes are positive developments for employers in comparison to the proposed rules. Our advice, however, remains the same. Employers should begin analyzing their workforce now to determine which employees will be most impacted by the salary change and put a plan in place over the next several months to either increase compensation or reclassify employees as non-exempt.

The Shumaker Employment Law Group is available to answer any questions you may have regarding the new overtime rules, so please do not hesitate to call if you need us at 941.366.6660.