

## DOL Issues Final Revision to FLSA Exemption Regulations

The Department of Labor (DOL) issued this week the highly anticipated final version of the Fair Labor Standards Act (FLSA) regulations concerning white-collar exemptions. The revisions include changes that will update and streamline the criteria used to determine exempt/nonexempt status and now potentially guarantee overtime to approximately 1.3 million new workers.

The final regulations significantly impact the human resource professional's FLSA determination decision making process and while the 15,000-word document issued by DOL is still being examined in greater detail, the key elements of the regulation are as follow:

- Employees must be paid at least \$455 per week salary in order to qualify for the executive, administrative, professional, or computer job exemptions.
- The relaxed test for highly compensated employees will only apply to those individuals whose total cash compensation is at least \$100,000 annually.
- Exemptions will not apply to law enforcement, firefighters, paramedical personnel, or others involved in performing those functions.
- Exempt managers must have authority to effectively recommend personnel decisions impacting their subordinates.
- The administrative exemption will require that employees exercise independent judgment and discretion.
- The professional exemption will no longer require that employees consistently exercise independent judgment and discretion.
- For employees in computer related jobs, the overtime exemption test will remain identical to the current regulatory and statutory language.
- For those individuals involved in sales activities, they will qualify for the outside sales exemption if they are customarily involved in sales work away from their worksite.

### IMPACTS

While the new rules remove many ambiguities, it also more clearly outlines when an employee is or is not exempt from the FLSA. Employers should review their job classification system and/or individual employee classifications to determine whether a change is required under the new regulations. Specific focus must now be paid to "administrative" employees earning less than \$100,000 because this position category poses the greatest risk to most non-manufacturing employees. The "exempt manager" category is one that is critical as well. The personnel decision-making component in some instances may adversely impact an exempt "lead" employees status.

**Special Note:** Associations are strongly encouraged to review the designations of its meeting and conference planning staff. Due to the typically long hours associated with that function, it is critical that those employees are properly classified. This will guard against the potential of future adverse action.

### WE CAN HELP!

PRM provides advisory services to employers grappling with the implications of the new FLSA regulations. For information or should you require assistance, please contact:

Gregory L. Perkins,  
SPHR  
Principal  
202-745-3728

Daniel Ripberger,  
PHR, CCP  
Principal  
202-745-3700