



Summit Group Retirement Planners, Inc.

Retirement in America Article #6: DOL Impact of Changes to Fair Labor Standards Act (FLSA)

Overview of Fair Labor Standards Act (FLSA)

The Department of Labor (DOL) created the Fair Labor Standards Act to establish guidelines for minimum wage, overtime pay, recordkeeping, and youth employment standards which affect employees in the private sector and in the federal, state, and local governments. The FLSA was established on June 25, 1938, signed into law by President Franklin D. Roosevelt.

The following provisions are a result of this act and will serve as background for the article:

- **FLSA Minimum Wage:** As of July 24, 2009, the federal minimum wage was set at \$7.25. This is the federal standard, however many states also have minimum wage laws. When these state laws are different than the federal rate, the employee is entitled to the higher minimum wage rate.
- **FLSA Overtime:** Employees must receive overtime pay if they are covered nonexempt for working over 40 hours per workweek. This rate they must receive is not less than one and one-half times the regular rate of pay. As long as employees are 16 years or older, there is no limit on the number of hours that employees can work.
- **Hours Worked:** This refers to the hours worked including all the time during which an employee is required to be on the employer's premises, on duty, or at a designated workplace.
- **Recordkeeping:** It is the job of employers to display an official poster outlining the requirements of the FLSA. It is also their responsibility to keep employee time and pay records.
- **Child Labor:** The role of the Child Labor laws are to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being.

Background on the DOL's Pending Changes to the FLSA Overtime Rules

The FLSA requires almost all employers to pay the majority of their employees at least the federal minimum wage for each hour worked as well as paying overtime for hours worked in excess of 40 hours in a workweek. Under the FLSA, there are certain exemptions from the overtime and minimum wage requirements for certain employees in the following categories: working in administrative, professional, executive, highly compensated, outside sales, and computer professional jobs. In order to qualify as an exempt employee, (*although most employees are not considered 'exempt'*), these employees must satisfy three tests:

- **Salary-Level Test:** Employers must pay employees a minimum salary requirement in order to qualify for the executive, administrative, and professional employee exemptions.

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- **Salary-Basis Test:** Employees must receive a predetermined amount of compensation for each pay period, distributed on a weekly or less frequent basis.
- **Duties Test:** The employee's primary duties must align with specific criteria.

Changes to the FLSA: Salary Increase

For employees that meet the administrative, professional (*includes salaried computer professionals*), and executive exemptions, they must be paid a minimum weekly salary of \$913. **This is an increase of \$458.** Additionally, the DOL rule raised the salary threshold for the highly compensated employee exemption from \$100,000 per year to the 90th percentile of earnings for full-time salaried employees, around \$134,004. The key takeaway is to review the classifications of your employees to ensure you are categorizing and in turn compensating them according to the new DOL FLSA standards which will take affect December 1, 2016.

For further reading about the DOL FLSA Regulation, please refer to the References below or contact Summit Group Retirement Planners, Inc. Representative: 267-433-1050 or dfiorenza@sgretirementplanners.com. Summit Group Retirement Planners, Inc. specializes on collaborating with employers on the design, installation, and ongoing servicing needs of their retirement programs.

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References

<https://www.dol.gov/whd/flsa/>

<https://www.dol.gov/oasam/programs/history/flsa1938.htm>

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