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New FLSA Overtime Pay Rules



The U.S. Department of Labor has recently announced the new Fair Labor Standards Act (FLSA), which goes into effect December 1, 2016. These new rules will make millions of employees eligible for overtime pay. Under the new regulation, most salaried workers who earn less than \$47,476 per year must receive time-and-a-half overtime pay when they work more than 40 hours in one week. The previous cutoff for overtime pay was \$23,660. This means that if you have an exempt, salaried employee who makes less than \$47,476 per year (or \$913 per week), and who works more than 40 hours in a week, you are required to pay them 1.5 times their wage rate for those overtime hours.

As a general matter, non-profit organizations are not subject to these new FLSA rules unless they engage in ordinary commercial activities that produce business revenue of \$500,000 or more annually. Ordinary commercial activities are activities such as operating a business, like a gift shop or program fees. Activities that are charitable in nature, however, are not considered ordinary commercial activities, and do not qualify.

If your organization does qualify, here is what your organization can do now to prepare for these changes:

- Make sure your time-keeping systems are adequate for your needs.
- Find out how much time exempt employees are actually working per week. Since exempt employees do not usually track their time by hour, it may be surprising to learn how much time they are actually working per week.
- Review job descriptions and assignments that may impact the organization and determine if changes need to be made to avoid overtime hours. This is a golden opportunity to address how tasks are divided within the organization.
- Expect that employee morale will be reduced if you reclassify managers to hourly and require them to track time. It is important to have a unified message to employees on how and why changes are going to be implemented. The key message to employees should be that these changes should not result in a decrease in pay and are required by law.

Options your organization has:

- Do not allow your employees to work overtime. While this may not be the best option for every nonprofit, it is the easiest way to avoid the overtime pay.
- Raise your exempt employees' salaries over the \$47,476 limit. This is another simple fix, which may not apply to everyone.
- Do the math and adjust the pay rate accordingly. If the employee works 50 hours per week, take their weekly salary and divide it by 50 hours and adjust their pay to the new hourly rate. This would mean you would need to reclassify that employee as hourly, rather than salary, but the end result would be that they are paid the same amount.
- Pay overtime rate of 1.5 times the base rate as needed.

What if you have part-time employees who make less than \$913 per week? As long as those employees do not work more than 40 hours in a week, overtime pay will not apply.

You may find that some overtime is unavoidable. Take a realistic look at your processes and workforce and plan accordingly.

In memoriam...



As you may know, we lost a beloved colleague and friend on May 23rd, Scott Wroblewski. Many of you had worked with him as he had a significant role here at Jones & Associates for the past six years. He is terribly missed and we thank you all for your kind words of condolence. He is survived by his wife, Jen, and children, Evie, Laura and Tim. Rest in peace, dear friend....

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Should you have any questions about the content of anything in this newsletter, please contact us.

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