Labor Department's New Overtime Rule Expands Pay for Millions

Employers appear to be wary of the federal guidelines released

The U.S. Labor Department released its updated rules making millions more American employees eligible for overtime pay. The ruling was released May 18 and will not take effect until Dec. 1, 2016, but some employers are already seeking ways to minimize the impact that the Labor Department rule will have on their budgets.

Previously, workers had to earn at least $23,660 per year ($455 per week) to be considered exempt from overtime pay. The new rule states that workers earning less than $47,476 per year ($913 per week) will be eligible for time-and-a-half overtime pay for working more than 40 hours per week. This new rule sets the standard salary level at the 40th percentile of earnings will be automatically reapplied every three years at the 40th percentile without accounting for inflation.

Under the new rule, about 4.2 million workers will become eligible for overtime pay, increasing the percentage of salaried workers who receive overtime pay from the current 7 percent in 2016 to 35 percent in 2017. Henry Jackson, president and CEO of the Society for Human Resource Management, said in a written statement that the new salary threshold "will mean many employees will lose the professional 'exempt' status that they have worked hard for and the flexibility from rigid schedules that they care deeply about." SHRM, like many others, hopes the DOL will reconsider the rule.

While workers' initial reactions to this new change may be positive, Andrew Volin, a partner at law firm Sherman & Howard and an expert on wage and hours and compensation issues, suggests that employees should be wary. After examining the new rule closely, Volin said, "Some current exempt workers will see their status shift to hourly. Others may keep their salary, but their hours might be cut, along with other elements of their compensation, like benefits."

Volin acknowledged the difficulties that employers may experience as a result of the new rule, explaining that many companies will adapt by having more employees track their time worked. This can be dangerous to employers, because it increases the likelihood that workers will claim they are not being paid for all of their time worked, he said. Furthermore, it can be difficult for employers to track the time employees spend working outside of their normal hours which, again, puts employers in a dangerous legal position.

While the change will not officially go into effect for another few months, Ryan Glasgow, a partner with the law firm Hunton & Williams, suggested that employers thoroughly educate themselves about this new rule and begin re-evaluating their compensation options now, because "there won't be a one-size-fits-all solution."