Proposed Changes in 2016 to Overtime Rules for Salaried Workers

The U.S. Department of Labor recently released its much anticipated proposed changes to the rules that govern overtime for salaried workers under the Fair Labor Standards Act (FLSA). If adopted, the new rules would extend overtime protections to nearly 5 million white-collar workers. The Labor Department is now reviewing the comments it received during the 60-day public comment period, which closed on Sept 4, 2015, and making any final changes to the proposed rules that it deems necessary. The agency will then rerelease the rules in final form, and announce an effective date, which is anticipated to be sometime later in 2016.

Currently, employers are required to pay overtime to all employees at one-and-one-half times their normal hourly rates, unless they are exempt from FLSA's overtime requirements. The most common of these exemptions are the "white-collar" exemptions, which exclude certain executive, administrative and professional employees from overtime protections based on the employee's salary level and duties.

Under the current rules, employees who earn $455 per week (or $23,660 per year) and perform certain white-collar duties (specifically defined in the regulations) are exempt from overtime requirements. Under the proposed rules, however, the Labor Department would raise the white-collar salary threshold to the 40th percentile of weekly earnings for fulltime salaried workers. Department officials project that in 2016 this will be $50,440 per year, more than doubling the current salary requirement. Additionally, the proposed rules would provide a mechanism to automatically update the threshold salary level annually, either by keeping it at the 40th percentile of weekly earnings for fulltime salaried workers, or by adjusting it for inflation based on the Consumer Price Index.

Employers should also be aware that the Labor Department is considering changes to the "duties tests" for white-collar exemptions. These tests define what types of job duties are exempt and which are not, and limit the proportion of an exempt employee's time that may be spent doing nonexempt work. Until the Labor Department announces what, if any, changes it will make to the duties tests, employers cannot be certain whether it will even be possible to classify some positions as exempt, regardless of salary level.

In short, employers need to be prepared to restructure their workforces to accommodate the increased costs resulting from the new overtime rules, but should not rush to implement changes until the final rules are issued.
We will keep you informed when the final rules are announced. Do not hesitate to contact our office if you need additional information in this matter.

Sincerely,

Baratz & Associates P.A.