

WATER COOLER MONTHLY

E-NEWSLETTER



January 2008 Happy New Year From the State of California - Minimum Wage Increased!

You May Need to Give Your Salaried Exempt Employees a Raise!

What Are We Talking About?

Since 2000, “exempt” employee status in California has been tied to the minimum wage. In other words, one of the required factors to maintain “exempt” employee status is that the exempt employee must be paid a “salary” that is at least twice the minimum wage.

If the minimum wage goes up, guess, what? Right, the minimum salary to maintain exempt status also goes up. You may have to give your salaried exempt employees a raise!

As of January 1, 2008, the minimum salary for an exempt employee on an annualized basis is \$33,280 (\$8/hr new min wage x 2 x 40 hours per week x 52 weeks per year).

Why Do We Care?

Well, as some of you already know, the line of demarcation between “exempt” and “non-exempt” though often ambiguous is huge – legally and from a cost standpoint.

Exempt employees are not subject to overtime pay. They can work 100 hours a week, but they still get paid the same.

Not true for non-exempt employees. As the name implies, non-exempt employees are benefactors of the overtime law – they get paid “OT,” as it is fondly called. All non-exempt employees must be paid 1.5 hours for every hour worked beyond 8 hours in a workday and 40 hours in a workweek. Other premiums apply for hours worked in excess of 12 hours in a workday and after the first 8 hours worked on the seventh day worked in any workweek.

Other pros include exemptions from rest and meal period laws and from having to maintain detailed time records for working time (the burden of which is on the employer for non-exempt employees). Moreover, while working “off the clock” is often the basis for non-exempt employee wage and hour lawsuits, no such claim applies to exempt folks since the “clock” is irrelevant to them

Potential Liability Is Significant.

Now, we suspect the majority of your exempt employees would never even think of filing a wage and hour claim based on the mere fact that their salary was not increased with the minimum wage. Most times exempt employees are in positions where naturally they are more loyal to the company.

However, even one disgruntled current or former manager can wreak havoc with your bottom line. Just think of the overtime that might be due for an otherwise exempt employee who works just 50 hours a week. Based on a \$30,000/year salary, the weekly overtime number could easily be \$216.30 (14.42 x 10 OT hours x 1.5) or approximately \$938.74/ month and \$11,247.60/year. And this does not include rest/meal period penalties or Labor Code section 203 penalties, which are one hour per workday and up to 30 days wages, respectively. These would not be small numbers.

The Easy Fix!

Make sure all of your exempt employees are being paid on a salary basis at a rate that is at least twice the minimum wage. That number is currently \$33,280 (\$8.00 minimum wage x 2 x 40 hours per week x 52 weeks in a year).

For more information on exempt versus non-exempt status, independent contractor status, wage and hour rules, and more, download Vision Law Corporation’s complimentary report: “Avoid Wiping Out Your Small Business From A Wage & Hour Class Action Lawsuit”. [Download now.](#)

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