

To our clients and friends:



EMPLOYMENT LABOR AND BENEFITS ADVISORY

JULY 16, 2007

Boston

Washington

New York

Stamford

Los Angeles

Palo Alto

San Diego

London

www.mintz.com

One Financial Center
Boston, Massachusetts 02111
617 542 6000
617 542 2241 fax

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202 434 7300
202 434 7400 fax

666 Third Avenue
New York, New York 10017
212 935 3000
212 983 3115 fax

707 Summer Street
Stamford, Connecticut 06901
203 658 1700

Employers Must Pay More in Minimum Wages Starting July 24th

On May 24th, Congress passed the Fair Minimum Wage Act of 2007, raising the federal minimum wage for the first time in almost a decade. Effective July 24, 2007, the minimum wage will increase from the current \$5.15 per hour to \$5.85 per hour for all employees subject to the minimum wage provisions of the Fair Labor Standards Act (FLSA).

The legislation also imposes additional federal minimum wage increases over the next two years. Specifically, the minimum wage will increase to \$6.55 per hour on July 24, 2008, and to \$7.25 per hour on July 24, 2009.

Exceptions

The federal minimum wage increase will not affect all employers in the same manner. For example, an employer of customarily tipped employees is still required to pay \$2.13 per hour in direct wages, provided that this amount plus tips received equals the federal minimum wage. Additionally, the youth minimum wage remains the same, which allows employers to pay employees under twenty years of age \$4.25 per hour during their first 90 consecutive days of employment.

Implications

In addition to increasing the minimum wage paid to non-exempt workers, employers subject to the FLSA also must post a notice explaining the federal minimum wage increase in a prominent place to facilitate employee access to the information. A revised federal minimum wage poster, which reflects the increased minimum wage, is available for free on the [Department of Labor's Web site](#).

Additionally, many states have minimum wage requirements that

203 658 1701 fax

1620 26th Street
Santa Monica, California 90404
310 586 3200
310 586 3202 fax

1400 Page Mill Road
Palo Alto, California 94304
650 251 7700
650 251 7739 fax

9255 Towne Centre Drive
San Diego, California 92121
858 320 3000
858 320 3001 fax

The Rectory
9 Ironmonger Lane
London EC2V 8EY England
+44 (0) 20 7726 4000
+44 (0) 20 7726 0055 fax

differ from the federal minimum wage or may be tied to the federal minimum wage. Employers covered by both state and federal minimum wage laws must ensure that they are paying employees whichever minimum wage—state or federal—is higher. For example, in both Massachusetts and California, the minimum wage for most employees is \$7.50 per hour and will increase to \$8.00 per hour on January 1, 2008. In the District of Columbia, virtually all private employers are required to pay their non-exempt employees the higher of either \$7.00 an hour or the federal minimum wage plus \$1.00. While the federal minimum wage increase that takes effect July 24th will not impact D.C.'s current minimum wage of \$7.00 an hour, the increases in the federal minimum wage that take effect on July 24, 2008 and July 24, 2009 will increase the minimum wage that employers in D.C. are required to pay to \$7.55 and \$8.25, respectively.

Conclusion

Employers must be especially careful to ensure that they are in compliance with the FLSA and similar state laws because class and collective actions under these laws are increasingly prevalent, in part because employees can recover up to double their damages as well as their attorneys fees and suit costs. To ensure continued compliance with the law, you should obtain and post the updated Department of Labor notice regarding employees' rights under the FLSA and confirm that you are paying the minimum wage required by both the FLSA and the laws of the states in which you have employees. At the same time, consider consulting with counsel to assess your compliance with the overtime, recordkeeping and other aspects of the FLSA.

* * * * *

If you would like further information on any subject covered in this Advisory, please contact one of the attorneys listed below, any member of Mintz Levin's [Employment, Labor and Benefits Section](#), or the Mintz Levin attorney who ordinarily handles your legal affairs.

Darlene H. Smith
202.434.7415 | DHSmith@mintz.com

Jennifer W. Persico
202.434.7460 | JWPersico@mintz.com

The above has been sent as a service by the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. and may be considered an advertisement or solicitation under federal law. The distribution list is maintained at Mintz Levin's main office, located at One Financial Center, Boston, Massachusetts 02111. If you no longer wish to receive electronic mailings from the firm, please notify our marketing department by going to www.mintz.com/unsubscribe.cfm.