



U.S. Department of Labor's New Federal Overtime Regulations: How it May Affect You

The Burr & Forman Health Care Group

July 2016

As you may be aware, the Department of Labor recently issued new overtime regulations that will significantly affect salaried employees and their classification as exempt (*i.e.*, not entitled to overtime pay) under the Fair Labor Standards Act. Under the new rules, if you have any salaried, exempt employees making less than \$47,476 (\$913 per week) their status as exempt may be in jeopardy, and thus, they may be entitled to overtime pay for hours worked over 40 in a workweek. The new rules also amend the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level. Also, note that the minimum salary and compensation levels will update every three years. Under the current rules the exempt threshold is fixed at \$23,660 and nondiscretionary bonuses and incentive payments cannot be used to satisfy the salary basis, so this is a significant change in the law. Based on the salaries of certain employees in the Health Care industry, these new regulations may have a significant impact on you and/or your business.

Burr & Forman's Labor and Employment Department has recommended that impacted businesses create a plan in advance of the December 1st effective date for these new rules. Options to consider are increasing affected employees' salary, modifying their bonus structure, or simply paying them on an hourly basis. Moreover, there are more complicated pay strategies, such as paying affected employees a fixed salary for work greater than 40 hours or setting up a "fluctuating workweek method", both of which would permit the employer to pay a lower overtime rate. The best fit will depend on your company.

Please contact any of the Health Care attorneys listed on the following page for additional information on these new regulations and the impact it could have on your business. We can connect you with [Matt Scully](#) in our Labor and Employment Department who has experience in this area and can discuss options and strategies for compliance with this new law.



Howard Bogard
Partner ~ AL
(205) 458-5416
hbogard@burr.com



Jim Hoover
Partner ~ AL
(205) 458-5111
jhoover@burr.com



Jack Mooresmith
Counsel ~ AL
(334) 387-2072
jmooresmith@burr.com



Chris Thompson
Associate ~ AL
(205) 458-5325
cthompson@burr.com



Richard Brockman
Counsel ~ AL
(205) 458-5175
rbrockman@burr.com



Chet Hosch
Partner ~ GA
(404) 685-4279
chosch@burr.com



Angie Smith
Partner ~ AL
(205) 458-5209
asmith@burr.com



Rob Williams
Partner ~ FL
(813) 367-5712
rwilliams@burr.com



Kelli Fleming
Partner ~ AL
(205) 458-5429
kfleming@burr.com



Matt Kroplin
Partner ~ TN
(615) 724-3248
mkroplin@burr.com



Jerry Taylor
Partner ~ TN
(615) 724-3247
jtaylor@burr.com



Tom Wood
Partner ~ AL
(251) 345-8203
twood@burr.com