

NLAP Newsletter: Dealing with the Stay of the December 1st Salary Increase

Here are some additional thoughts and guidance on handling the Texas court's ruling staying the new FLSA rules.

1. If you have already communicated these changes to your employees, any decision to rescind or modify those changes should be very carefully evaluated. The action could have a big impact on employee morale, particularly if the changes (i.e., the court's injunction) are short lived.
2. If you made changes from exempt to non-exempt because employees did not meet the duties tests for administrative, executive, professional or computer professional exemptions, you should maintain those changes. This is a good thing regardless of what happens to the new rule.
3. If you have **not** yet communicated any changes, you can consider postponing the changes, but should very carefully determine your next steps, keeping in mind there is a great deal of uncertainty, from a legal and DOL compliance perspective, if the injunction ends or getting resolved, particularly if that occurs prior to the new administration taking office next year. It is unclear whether the court would implement a new effective date or reinstate the December 1 date.
4. Finally, regardless of what happens to this rule, the DOL's Wage and Hour Division plans to increase enforcement and to work closely with private attorneys with regards to enforcement. In addition, there are a seemingly infinite number of solutions which can be applied by the courts, the federal legislature or the current or new President. At this point, it is impossible to predict what might happen on either front.

If you have any questions, or if you need specific guidance with your situation, please do not hesitate to contact me. I hope everyone has a happy Thanksgiving holiday. John

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NLAP Newsletter - 2016
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