

The FSLA Final Rule and Its Impact On the Government Employer

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The views set forth below are those of Suzanne Bartos, and do not necessarily reflect the view of MIPRIMA

President Obama has recently amended the Wage and Hour Act in ways, which will affect almost every employer. Fortunately, for the government employer, the Final Rule, as it is referred, has minimal effect.

The Final Rule increases the salary level required for the “white collar worker” (executive, administrative and professional) exemption and provides greater clarity for white-collar workers. The salary threshold under which most white-collar workers are entitled to overtime increases from \$455/week to \$913/week. The Final Rule goes into effect December 1, 2016 with scheduled increases every 3 years starting January 1, 2020.

The long-standing provisions of the FLSA unique to government employers will help lessen the impact of the Final Rule. For instance, fire protection and law enforcement employees’ overtime can be calculated on a work period of 7-28 consecutive days, rather than a work week. Overtime must be paid for that time period, for example, 86 hours over a 14-day period. The FLSA rules also don’t apply to small departments employing 5 or less firefighters or police officers.

The most unique provision of the Act is the allowance of overtime compensated by comp time, in lieu of pay. If there is a written agreement with the bargaining representative (usually the union) the government employer is allowed to compensate in time calculated at 1.5 hours/1 hour overtime. Thus, the hourly worker is more than likely already receiving overtime compensation.

The salaried workers who do not primarily perform executive, administrative or professional duties are not eligible for the white-collar exemption and, thus, won’t be affected by the rule changes. These workers should already be receiving overtime compensation. This compensation can be in the form of comp time, as with the hourly worker. The rule changes also don’t affect the elected officials, and their personal staff, and the legislative branch employees. These workers are exempt from the FLSA and aren’t required to be paid overtime under the Act.

Although the Final Rule’s impact on the government employer is less than that of the private sector employer, the compensation policies should be reviewed to ensure compliance.

For more information regarding this subject matter please contact Suzanne Bartos, Esq. Phone: 734-261-2400, or [email](#).

