

Labor Law Release

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What the Minimum Wage Increase Means to California Employers

Effective January 1, 2008, California's general minimum wage increased from \$7.50 to \$8.00 per hour. This change impacts California businesses several ways.

Costs Associated with the Increase

The minimum wage increase represents a \$1,040 annual raise for full-time employees. The increase also adds to the pressure for raising wages of other employees, particularly those just above minimum wage. They don't think it is fair for them to stay at the same wage when others receive a wage increase. Therefore, employers can expect to make multiple changes to their compensation structure.

This is not the only cost associated with the minimum wage increase. Employers will also be required to pay payroll taxes, such as social security, on the increased wages. Moreover, workers' compensation premiums are typically based on an employer's payroll. Therefore, an increase in minimum wage increases a company's workers' compensation insurance premiums.

The Effect on Exempt Employees

Minimum wage increases also affect exempt employees. In order for an employee to be "exempt" or ineligible for overtime compensation, (s)he must earn a minimum salary. In California, the employee must earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. By the way, this amount cannot be prorated for part-time employees.

In 2008, the minimum salary for an exempt employee is \$33,280 per year or \$2,773.33 per month. This represents an annual increase of \$2,600 over 2007.

If an employer does not pay an employee at least \$33,280, (s)he is not exempt. Any hours worked by the employee in excess of eight hours per workday or 40 hours per workweek must be paid at overtime rates.

Computer Professionals

Many employers don't realize that computer professionals have their own minimum wage law. They must earn an hourly rate of \$36.00. This is the equivalent of \$74,880 per year for 2,080 hours of work. This is the first time California has decreased the minimum wage for computer professionals. In 2007 it was \$49.77, the equivalent of \$103,521.60 for a full-time employee.

Inside Salespersons

Inside salespersons can be exempt under California law if they earn at least one and one-half times the minimum wage and at least half of the employee's compensation represents commissions. This means the worker must earn at least \$24,960, or \$1,560 more than in 2007 to be exempt.

Recordkeeping

One of the biggest problems for employers who misclassify an employee as exempt is the lack of time records for exempt employees. Employers don't typically keep time records on exempt employees since they are not paid by the hour. When an employee makes a claim, the employer is in a difficult position, often without evidence to contradict the employee's often overstated claim of overtime worked. As a result, employers must rely on the memories of co-workers, alarm or key codes and other anecdotal evidence.

Conclusion

Employers should examine the compensation of all exempt employees to verify it meets minimum wage laws. They should also consider examining whether the exempt employees' duties meet the requirements of state and federal law. Failure to do so could result in litigation and a substantial adverse judgment.

This is not intended as a complete analysis of the subject matter, or legal advice on any specific matter. Contact us if you have specific questions or need further assistance.