

NEW OVERTIME REGULATIONS ENJOINED NATIONWIDE

A Texas federal district court judge on Tuesday issued a preliminary injunction temporarily blocking the nationwide implementation and enforcement of the new overtime regulations. The regulations were set to go into effect on December 1, 2016, and would have doubled the minimum salary requirements for the main exemptions under the Fair Labor Standards Act (FLSA).

So, practically speaking, what does this mean for your business?

1. The new regulations will not go into effect on December 1, 2016, and may never go into effect. There is no current legal requirement to comply with the new minimum salary requirements. While the duties tests for the various exemptions, which were unchanged by the new regulations, still apply, the higher minimum salary requirements are currently blocked. In short, at least for now, the minimum salary test remains at the current threshold of \$455 per week and \$23,660 per year.
2. While the legal requirements may not change on December 1, your business may have already taken steps to implement the changes effective on that date. You are certainly *permitted* to proceed with those plans if, from a business and employee relations perspective, you believe that is the best course of action at this time. However, you are no longer *required* to proceed with those changes to comply with the FLSA. Keep in mind that if you have entered into any agreements of a contractual nature with employees related to their new compensation or wages, you will want to ensure any reversal of those adjustments complies with those agreements and any applicable state laws. The bottom line is that you now have options

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that didn't exist a week ago, but the ramifications of those options could have a greater effect on employee morale than on compliance with the law.

3. Your preparations may have revealed employees who were misclassified as exempt based on their job duties, and you either already transitioned or were going to transition those employees to non-exempt status. Those changes should still occur because the job duties tests remain unchanged.
4. While we can say with certainty what will **not** happen on December 1, how the legal landscape plays out remains unknown. The next step would likely be the Judge making his injunction permanent. It is unclear when that might happen and the DOL *could* then seek to appeal that final ruling. The decision of whether to appeal will likely be made under the new administration. While we cannot predict whether the new administration will pursue such an appeal, the lack of an appeal would essentially render the Texas judge's decision to be final. In any event, even if an appeal is pursued, that process is not likely to begin (and certainly will not be anywhere near completion) prior to the inauguration of the new President, and the new administration could decide to withdraw the appeal. Finally, even if an appeal by the DOL would be successful and the injunction lifted, the new regulation would not be implemented retroactively. We would then need to stay tuned for a new implementation date.