



FEDERAL MINIMUM SALARY DRAMA? NEW YORK SAYS FUHGETTABOUTIT!

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Published on www.lorman.com - May 2017

Federal Minimum Salary Drama? New York Says Fuhgettaboutit! ©2017 Lorman Education Services. All Rights Reserved.

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Federal Minimum Salary Drama? New York Says Fuhgettaboutit!

Written by John L. Litchfield - 1/9/17

As if the start-again, stop-again saga with the U.S. Department of Labor's rules increasing the minimum salary threshold for exempt workers wasn't confusing enough, at least one state has jumped into the fray and changed its own overtime rules — New York. Effective December 31, 2016, the New York Department of Labor amended its minimum wage rules to increase the minimum threshold salary that employers must pay administrative and executive employees to maintain their overtime exemptions. This will have a significant impact on New York employers' bottom lines to the extent that their exempt workers are not paid a salary meeting the new floor rates. If you were unaware of this change, a quick review of the chart we provide below could save you from racking up thousands of dollars in overtime liabilities and penalties for failure to meet the new standards.

Prior to December 31 of last year, New York's statewide minimum salary threshold for exempt workers was \$675 per week (or \$35,100 annually) (compare that with the current \$455 federal minimum weekly salary threshold (\$23,660)). Now, however, New York's minimum exempt salary not only varies by geographical location and the size of the employer, but will increase on an annual basis over the next several years. There are so many moving parts to these new rules, employers will need to pay close attention and hold on to their hats.

Below, we have reproduced the minimum salaries and scheduled increases that will apply to nearly all New York employers. To illustrate our point — that this is complicated stuff — consider the following: as you likely know, exempt workers' salaries must meet or exceed the minimum threshold established by both state and federal agencies to maintain their exemption. If, in anticipation of the now-blocked federal minimum salary threshold increases, you met and kept in place the proposed \$913 weekly/\$47,476 annual minimum salary for exempt workers, you are already meeting New York's new minimum threshold for 2017. However, starting December 31, 2017, large employers in New York City will need to adjust upward that minimum to continue the exemption, but workers at small companies and outside the city will not — at least until December 31, 2018, when another increase kicks in.

Is your head spinning yet?

It is important to seek legal counsel when implementing any salary changes or conducting any type of wage and hour review of your workforce. If you had not already acted in anticipation of the federal changes to the overtime exemptions, doing so quickly now to make necessary adjustments will limit exposure and likely impart at least some goodwill with an auditing agency or a court tasked with determining whether workers are properly classified under the new rules. And for those of you outside the Big Apple, make sure to be on alert for state laws and local ordinances impacting your employment practices too. As we have recently advised, employment law more and more appears to be "going local."

NY State — Minimum Salary Requirements for Overtime Exempt Status

A. Employers in New York City

1. Large employers (11 or more employees)

1. As of 12/31/16: \$825.00 per week (\$42,900 annually)
2. As of 12/31/17: \$975.00 per week (\$50,700 annually)
3. As of 12/31/18: \$1,125.00 per week (\$58,500 annually)

2. Small employers (10 or fewer employees)

0. As of 12/31/16: \$787.50 per week (\$40,950 annually)
1. As of 12/31/17: \$900.00 per week (\$46,800 annually)
2. As of 12/31/18: \$1,012.50 per week (\$52,650 annually)

B. Employers in Nassau, Suffolk, and Westchester Counties

- As of 12/31/16: \$750.00 per week (\$39,000 annually) on and after 12/31/16
- As of 12/31/17: \$825.00 per week (\$42,900 annually) on and after 12/31/17
- As of 12/31/18: \$900.00 per week (\$46,800 annually) on and after 12/31/18
- As of 12/31/19: \$975.00 per week (\$50,700 annually) on and after 12/31/19
- As of 12/31/20: \$1,050.00 per week (\$54,600 annually) on and after 12/31/20
- As of 12/31/21: \$1,125.00 per week (\$58,500 annually) on and after 12/31/21

C. Employers Outside of New York City, Nassau, Suffolk, and Westchester Counties

- As of 12/31/16: \$727.50 per week (\$37,830 annually) on and after 12/31/16
- As of 12/31/17: \$780.00 per week (\$40,560 annually) on and after 12/31/17
- As of 12/31/18: \$832.00 per week (\$43,264 annually) on and after 12/31/18
- As of 12/31/19: \$885.00 per week (\$46,020 annually) on and after 12/31/19
- As of 12/31/20: \$937.50 per week (\$48,750 annually) on and after 12/31/20

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