

Missing Fanfare for Looming New York State Labor Changes

On October 19, 2016, on the heels of the issuance of the final regulations updating the salary thresholds for the federal Fair Labor Standards Act (“FLSA”) “white collar” exemptions¹, the New York State Department of Labor (“DOL”) issued its own proposed rule to increase the minimum salary thresholds for the state “white collar” exemptions.² Currently the salary threshold for classification as an exempt executive or administrative employee under New York State law is \$675.00 a week, well below the updated FLSA “white collar” exemption salary threshold of \$913 per week set to take effect December 1, 2016. New York proposed the following new minimum salary threshold levels for classification as an exempt executive or administrative employee.

NYC Large Employers (11 or more employees)

\$825.00 per week on and after 12/31/16

\$975.00 per week on and after 12/31/17

\$1,125.00 per week on and after 12/31/18

NYC Small Employers (10 or fewer employees)

\$787.50 per week on and after 12/31/16

\$900.00 per week on and after 12/31/17

\$1,012.50 per week on and after 12/31/18

\$1,125.00 per week on and after 12/31/19

Employers in Nassau, Suffolk, and Westchester Counties

\$750.00 per week on and after 12/31/16

\$825.00 per week on and after 12/31/17

\$900.00 per week on and after 12/31/18

\$975.00 per week on and after 12/31/19

\$1,050.00 per week on and after 12/31/20

\$1,125.00 per week on and after 12/31/21

Greater New York Employers (Remainder of State irrespective of employer size)

\$727.50 per week on and after 12/31/16

\$780.00 per week on and after 12/31/17

\$832.00 per week on and after 12/31/18

\$885.00 per week on and after 12/31/19

\$937.50 per week on and after 12/31/20

Notably these proposed salary threshold increases are not in line with the FLSA threshold increase. If these proposed rules are adopted, New York State’s “white collar” exemption salary thresholds will exceed the FLSA thresholds by 2018. Unlike the regulation that increases the federal FLSA exemption salary thresholds, New York’s proposed rule still open for public comment. Employers should take note that, if adopted, the initial proposed threshold increase will take effect on December 31, 2016. Despite the significant implications of the state’s proposed rule, its publicity pales in comparison to the attention garnered by its federal counterpart. A reminder to employers that it is important to ensure compliance with both federal and state standards when determining whether an employee is eligible for the “white collar” exemption.

¹ A discussion of the FLSA changes is available at [ADD LINK HERE]

² A copy of the full proposed regulations are available at <http://labor.ny.gov/legal/laws/pdf/minimum-wage/19-amended-rule.pdf>