

**Important information regarding recent overtime litigation in the U.S. District Court of Eastern District of Texas**

On July 26, 2017 the Department of Labor published a Request for Information (RFI), Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees. For more information, please visit <http://www.dol.gov/whd/overtime/rfi2016.htm>

## **Fact Sheet: Impact of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) for Employees in Puerto Rico**

### **Impact on Minimum Wage in Puerto Rico**

Section 403 of PROMESA modified section 6(g) of the Fair Labor Standards Act (FLSA) to allow employers to pay employees in Puerto Rico who are under the age of 25 years a subminimum wage of not less than \$4.25 per hour for the first 90 consecutive calendar days after initial employment by their employer. This change became effective on June 30, 2016, the effective date of PROMESA. This extension of the youth minimum wage to employees who are under the age of 25 years only applies to employees in Puerto Rico.

The Governor of Puerto Rico, subject to the approval of the Financial Oversight and Management Board established by PROMESA, may designate the duration of this expansion of the section 6(g) subminimum wage for employees who are under 25 years of age; however, this time period may not exceed four years.

### **Impact on Overtime Pay for White Collar Workers**

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime requirements for employees employed as bona fide executive, administrative, professional, and outside sales employees. These exemptions are sometimes referred to collectively as the “white collar” exemptions, and are defined in the Department’s regulations located at 29 C.F.R. part 541. To qualify for one of these exemptions, employees generally must (1) be paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed (“salary basis test”); (2) be paid at least a specified weekly standard salary level (“salary level test”); and (3) primarily perform executive, administrative, or professional duties as defined by the regulations (“duties test”). Job titles alone do not determine exempt status, and neither does the receipt of a particular salary. In order for an exemption to apply, an employee’s specific job duties and earnings must meet all of the applicable requirements.

On May 23, 2016, the Department published a Final Rule, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees (Final Rule), which updated the white collar exemption regulations and becomes effective on December 1, 2016. Section 404 of PROMESA precludes the application in Puerto Rico of the Department of Labor’s Final Rule, which would have (among other things) entitled most salaried white collar workers earning less than \$913\* a week (\$47,476 a year) to overtime pay beginning December 1, 2016. Under section 404 of PROMESA, the Final Rule may not take effect in Puerto Rico until the Comptroller General completes a report that examines the economic conditions of the Commonwealth, and the Secretary of Labor indicates in a written determination to Congress that the application of the Final Rule in Puerto Rico would not have a negative impact on its economy.

Consequently, the Department will not enforce the provisions of the Final Rule with respect to employees in Puerto Rico. The Department will instead continue to enforce the regulations in effect on November 30, 2016 that, among other things, require employees be paid not less than \$455\* per week on a salary basis in order to qualify for the FLSA's white collar exemption from minimum wage and overtime pay.

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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Note (added January 2018):

\*The Department of Labor is undertaking rulemaking to revise the regulations located at 29 C.F.R. part 541, which govern the exemption of executive, administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime pay requirements. Until the Department issues its final rule, it will enforce the part 541 regulations in effect on November 30, 2016, including the \$455 per week standard salary level. These regulations are available at: <https://www.dol.gov/whd/overtime/regulations.pdf>