

# EMPLOYMENT LAW BRIEFING

## HOLIDAY 2016

**Holiday Issue:** This issue of **EMPLOYMENT LAW BRIEFING** focuses on workplace issues which typically arise at this time of year. Please let us know of any topic you would like to see addressed in this publication, we welcome your suggestions. All of us at **Whitford Law Offices** appreciate your support over the last year and extend our best wishes for the holiday season.

**2017 Minimum Wage Rates:** On January 1, Washington's minimum wage rate will increase from \$9.47 to **\$11.00** per hour. The inflation-indexed approach has been replaced by a series of scheduled annual increases rising to \$13.50 in 2020. Oregon adopted tiered minimum wage rates on July 1. The current hourly minimum wage is **\$9.75** for Tier 1 and Tier 2 Employers and **\$9.50** for Tier 3 Employers. Oregon's tiered rates are scheduled to increase in July. The federal minimum wage of \$7.25 per hour, set in July of 2009, is not scheduled to change. A growing number of local jurisdictions have adopted higher minimum wage rates.

**Overtime Adjustments for Bonus Payments:** Many organizations have adopted a tradition of bonus payments during the holiday season. Bonuses can effectively reward a job well done and encourage future efforts. Problems may arise, however, when a current or former employee does not receive an expected bonus. Additionally, if a bonus is considered "non-discretionary" under wage and hour regulations, any overtime payments during the period covered by the bonus must be recalculated to reflect the addition of the bonus amount to the regular rate of pay. To avoid unexpected liability, adopt a clear written policy describing the purpose of the bonus, the period covered, the process for determining the fund from which bonuses are paid, eligibility requirements for participation and the date of bonus distribution.

**Exempt Employee Pay & Holiday Closures:** In order to be exempt from overtime, employees must perform qualifying duties, be compensated on a "bona fide salary basis" and be paid at least the minimum salary level. An exempt employee, who works any part of the work day, must be paid for the entire day. Similarly, if an exempt employee works only part of a designated workweek, due to an employer action, such as a shutdown between year-end holidays, the employee must be paid a full week's salary. Employers with a 12:01 a.m. Sunday to midnight Saturday workweek, closing between Christmas and New Year's Day this season, for example, will not need to pay salaries to exempt employees, off work during the closure - *if* no duties are performed from December 25 through New Year's Eve.

**Minimum Salary Increase for Overtime Exemption on Hold:** The Department of Labor's Overtime Final Rule, which would have raised the minimum salary level for the overtime exemption on December 1, has been temporarily enjoined by a federal district court in Texas. As a result, the projected increase, from \$455 weekly/\$23,660 annually to \$913 weekly/\$47,460 annually, is on hold, pending an expedited appeal of the decision, filed by the Justice Department. Although the new threshold has not taken effect, steps taken to comply with the rule should remain in place until the Appellate Court has ruled, to avoid workplace uncertainty.

Please contact our office if you have questions about the material in this newsletter, or other employment law compliance concerns.

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