Counting Bonuses Toward the New FLSA Salary Level: Much Ado About Nothing or Radical Break From the Past?

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The article, "Counting Bonuses Toward the New FLSA Salary Level: Much Ado About Nothing or Radical Break From the Past?" featured on the *Xpert HR Blog,* discussed how the US Department of Labor (DOL) is expected to issue final regulations that will raise the minimum weekly salary level from $455 to somewhere around $970.

John Thompson discussed why this new proposal isn't really a change in any meaningful respect.

He observed, "There is already a way to accomplish much the same thing."

Specifically, an employer could pay at least $970 per week (or whatever the actual minimum weekly salary is when the new regulations come out) on a salary basis as a guaranteed draw or advance against incentive-based compensation.

The DOL has recognized this practice for several decades, most recently in an opinion letter from 2006.

As John noted, a guaranteed draw or advance is effectively no different from an employer counting incentive-based compensation towards the minimum salary level. If the $970 salary level is an incontrovertible floor, it's irrelevant whether incentive-based compensation accounts for 10% or 100% of the $970; it's all the same pot of money in the end.

To read the full article, please visit *Xpert HR Blog*.

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