

Cleveland Attorney Sheds Light on Specifics of DOL's New White-Collar Exemption Rule

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On September 24, 2019 the Department of Labor announced a final rule raising the earnings threshold for exempt executive, administrative and professional employees. Although the threshold levels changed, the salary test and the duties test that determine whether an employee qualifies for the exemption remain the same. Cleveland attorney Jim Patrick, quoted in an *Akron Legal News* article, reminded employers that the duties employees perform, rather than their job titles, determine exempt status.

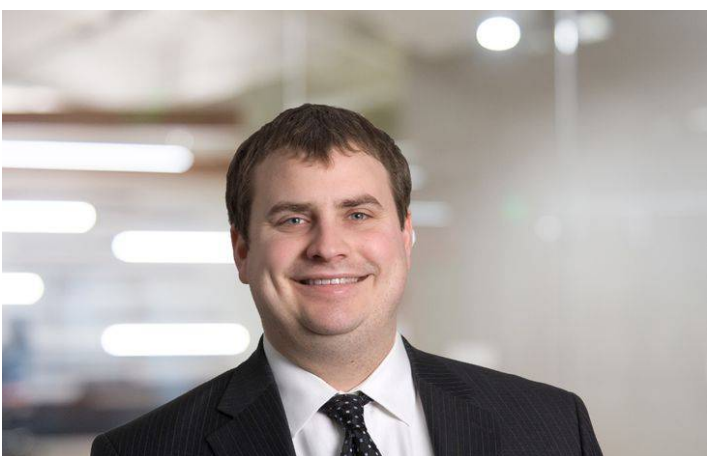
Jim also said the final rule allows employers to use nondiscretionary bonuses and incentive payments, including commissions, to satisfy up to 10% of the new standard salary levels.

“One potential difficulty is a situation where an employer is planning to rely on nondiscretionary bonuses and incentive payments to help satisfy the salary threshold, but the employee ultimately falls short of making enough in nondiscretionary bonuses and incentive payments,” Jim said. “In this situation the final rule allows employers to make a catch-up payment to ensure the salary threshold is met.”

The article is available in the November 8, 2019, print edition of *Akron Legal News*.

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