



When Will The Exemption Changes Occur?

Insights

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One of the most-pressing questions for employers at the moment is when the U.S. Labor Department will finalize changes in its definitions of the federal Fair Labor Standards Act's Section 13(a)(1) exemptions.

Some have recently suggested that final regulations will be released late next summer. We are not at all convinced that they will be so long in coming.

Factors To Consider

A common view is that USDOL will spend many months studying what are being described as hundreds of thousands of comments on its proposals. However, the fact is that a significant number of these filings consist of only brief expressions of opposition or support (some of a template or formbook nature) that contain little or nothing in the way of analysis. Many others simply sought an extension of the deadline for submitting substantive presentations. Still more "comments" were in reality nothing other than spreadsheets or other lists containing the names of individuals who essentially signed a petition. So while some comments (see link below) do call for an in-depth assessment, one may question how much evaluation is actually necessary with respect to perhaps most of them.

Recall also that proponents of salary increases and other exemption changes strenuously (and successfully) opposed any extension of the comment period and have also urged USDOL to implement its revisions without delay. No doubt these constituencies continue to pressure USDOL even now.

Finally, the impact of 2016's elections should not be overlooked. It is entirely possible that political calculations will lead the Administration to conclude that sooner is better than later where the salary increases are concerned.

The Bottom Line

In the end, probably no one outside USDOL knows with certainty what its thinking is on timing. But we are inclined to suspect that final regulations will be released in the first quarter of next year with an effective date around the end of the second quarter.

More importantly, however, we recommend that employers avoid getting caught up in the speculation. They should instead proceed with their analysis and planning so as to be prepared no

speculation. They should instead proceed with their analysis and planning so as to be prepared no matter *when* they must eventually take action.

[Fisher Phillips FLSA Exemption Comments 09 03 15.pdf \(292.97 kb\)](#)