

OREGON'S MINIMUM WAGE INCREASED AGAIN: HAPPY NEW YEAR

Insights

Jan 5, 2009

Oregon's minimum wage increased forty-five cents, from \$7.95 to \$8.40, effective January 1, 2009. The increase comes thanks to an Oregon statute requiring the Commissioner of the Bureau of Labor and Industries (BOLI) to calculate a minimum-wage adjustment each September. The adjustment is based on any increase during the previous 12 months in the U.S. City Average Consumer Price Index (CPI).

Because of an increase in the CPI of 5.37% from August 2007 to August 2008, the calculation used for determining the 2009 minimum wage rate was $\$7.95 \times .0537$ (\$.4269), which is then rounded to the nearest five cents, or \$0.45.

A handful of other states, including Washington, Nevada, Missouri, Vermont, Colorado, Montana, and Arizona also annually adjust their minimum wage based on inflation and the CPI. Washington will have the highest minimum wage rate in the nation in 2009 (\$8.55 per hour), with Oregon coming in second. Oregon's minimum wage rate still far exceeds the federal rate, which will also rise from \$6.55 to \$7.25 per hour on July 24, 2009.

Oregon employers must follow the standard most beneficial to the employee when there are conflicting requirements in the laws, which means the state minimum wage rate unless your employees are exempt under Oregon law.

Use This As An Opportunity To Conduct An Audit

The change in the minimum wage rate provides a good opportunity for Oregon employers to audit their pay practices and ensure that they are in compliance with all wage and hour laws. Failure to timely pay all wages due in Oregon can result in considerable penalties, and with wage-and-hour litigation on the rise, employers are facing these penalties on an ever-increasing basis.

In conducting your audit, take a thorough look at the positions performed by employees considered exempt in order to ensure that they are properly classified. Courts will look at each position on a case-by-case basis, so make sure that each employee's job is considered separately and don't apply a blanket classification based on a job title.

Keep in mind that deductions may not be taken, nor may employees be required to pay, for anything that would reduce their pay below minimum wage in any pay period. And remember that Oregon law prohibits applying tips received by an employee toward payment of the minimum wage.

New Posters Required

Oregon state law requires employers to post minimum-wage posters, which were sent out by the Bureau of Labor and Industries in December 2008. If you have not received one, you may download one from BOLI's website at www.oregon.gov/BOLI.

For more information about the law's requirements, or conducting your own internal audit, contact any attorney in our Portland office at 503.242.4262.

This Legal Alert provides information about a specific new requirement of the law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.