



CLIENT ADVISORY

November 2016

On November 22, 2016, a federal judge in Texas issued a nationwide injunction blocking the Department of Labor's (DOL) planned increase of the salary required for the white collar exemptions under the Fair Labor Standards Act. Specifically, the DOL was set to raise the salary requirement for the executive, administrative, and professional exemptions from \$455 per week (\$23,660 annually) to \$913 per week (\$47,476 annually). The requirement was going to be effective December 1st.

In halting the salary increase, the judge reasoned that the DOL's more than doubling the salary required for the exemption improperly shifted the focus away from employees' job duties. By overemphasizing the significantly higher salary, the DOL improperly took the exemption away from millions of employees whose job duties otherwise fulfilled the exemption requirements.

Although the ruling is a preliminary injunction, the judge signaled that he favors the merits of the parties challenging the DOL's action, so it is most likely going to become a permanent ruling as the litigation progresses. Although the Obama Administration will almost certainly appeal the ruling, for now, the planned salary increase will not take effect December 1st or any time soon. In fact, the Trump presidency could instruct the DOL to drop the appeal, making yesterday's ruling permanent. We will continue to monitor this matter as it develops.

To the extent employers have not already increased exempt employees' salaries or converted them to non-exempt positions, the injunction at the very least allows employers to postpone those changes. However, employers that have already communicated or implemented changes in anticipation of the DOL's planned action may be in a tough position. While employers can legally roll the changes back (unless they have been implemented in a formal contract), doing so may severely affect employee morale. Therefore, these decisions and any messaging to employees should be carefully considered and carefully crafted.

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