Robert Goodman, CPA, MBA

November 2016

STRAIGHT TALK ABOUT SMALL BUSINESS SUCCESS

The newsletter designed to keep you on course to build a successful small business

Welcome to the November 2016 edition of the **Straight Talk Newsletter**. With Halloween behind us, next up is my favorite holiday, Thanksgiving! In this edition you'll notice the article, *"Take the Management Approach That Fits."* This article will show you that not every manager is the same, and not everyone's management style is the same.

Also in this month's issue, is a light-hearted story about a man who forgot to buy a Thanksgiving turkey. Being it's one of my favorite holidays, I couldn't imagine forgetting the main course, but I can picture this story taking place at countless butchers and supermarkets across the nation just hours before Thanksgiving.

On the final page of the newsletter is an article about handling criticism. Often times criticism isn't taken well, however many don't realize that criticism is the key to taking your performance to the next level. An interesting story awaits you.

Wishing you and yours a very **Happy Thanksgiving!** We are thankful for YOU as a reader of this newsletter.

Until Next Month,

Robert Goodman, CPA, MBA

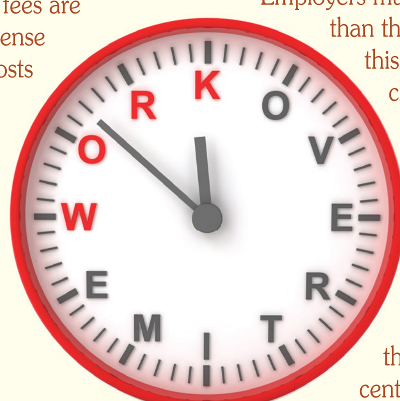
Please visit our new updated website: rg-cpa.com & ask me about a free personal Tax plan!

ALERT FOR EMPLOYERS: New Overtime Pay Rules as of December 1, 2016

The U.S. Department of Labor made a decision to more than double the weekly salary threshold under which salaried workers are eligible for overtime pay when they work more than 40 hours in a week. The new rules go into effect on **December 1, 2016.**

Current Threshold (until 12/1/16)	$455 per week	$24,000 per year (approximate)
New Threshold (as of 12/1/16)	$913 per week	$47,500 per year (approximate)

One result may be an increase in wage and hour lawsuits, which have already risen dramatically in recent years. Such suits are usually brought by groups of employees as opposed to individuals. The Fair Labor Standards Act (FLSA) provides for the overtime exemption. Under the FLSA, double damages and attorney's fees are available for claims, and it's worth noting that defense costs can also be substantial. Often times these costs exceed the amount of the wages in dispute.



Employers' First Step

First, determine what workers are affected by the new regulation. This group primarily includes those who perform exempt duties, such as executive, administrative and professional employees, who currently earn between the old minimum and the new minimum.

Definitions

One thing the new regulations did not change are the duties requirements for the exemptions from the FLSA's overtime-pay provisions.

"Executives" -- must be in charge of part of a business and supervise at least two full-time workers.

"Administrative" – these workers perform duties related to the management or general business operations using discretion and independent judgment.

"Professionals" -- are divided into either learned (highly educated) or creative (artistic) sub-groups.

And then there's a second set of exemptions for the "Highly Compensated Employees" – white collar workers who earn at least $100,000 per year and who perform duties that may not strictly meet all of the requirements for an executive, administrative, or professional exemption, but are so close that the employer worries that in the event of a dispute, it may lose. The new regulations increase the annual requirement for such workers to more than $134,000.

Employers must also consider workers who earn slightly more than the new minimum. There are several reasons for this. One is the ripple effect from compensation changes. If one worker's compensation is increased because of these new regulations, the employer may also want to adjust the compensation of people earning slightly more.

Also, the new regulations provide for automatic increases in the earnings threshold every three years. The increases will be based on statistics on compensation for salaried workers. For example, the minimum salary will be based on the 40th percentile in the lowest-wage region in the United States. The annual earning threshold for highly compensated employees will be based on the 90th percentile nationally.

Planning must take the future changes into account as well. Companies may want to switch their normal annual compensation changes to coincide with the Dec. 1 dates of the periodic automatic

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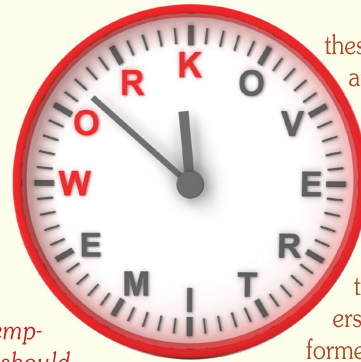
increases in the exemption threshold.



Adjusting Compensation

Companies must decide how to adjust compensation for the affected workers. Of course, total compensation can include a discussion of benefits, but just in terms of pay, employers may have at least five options for most white-collar workers. They are:

1. *Increase the salary level to maintain the exemption. For most companies, only a lucky few should expect this outright raise.*
2. *Convert the salaried worker to an hourly worker, at a rate determined by dividing the current salary by 40 hours. If these employees work overtime, their overall compensation will rise. Accurate records of time worked are necessary to determine total compensation, for this option as well as the remaining ones.*
3. *Convert the worker to hourly, at a rate determined by dividing the current salary by total hours worked. This is more complex, but on the plus side it might result in no net change in compensation. For example, say Andy has been working 50 hours per week and paid $40,000 a year. Do the math: The hourly rate works out to $14.54, so for 40 hours at straight time, Andy gets $582 per week. The 10 hours of overtime, at time-and-a-half pay, brings him $218, for a weekly total of $800. Fifty of those weeks per year equal $40,000.*
4. *Convert the worker from salaried exempt to salaried non-exempt. Companies will not pay overtime after 40 hours but will have to pay for 40 hours even for weeks when the worker puts in less than 40 hours. This option would be useful for workers who have a consistent number of overtime hours each week.*
5. *For some workers, consider whether to use a "fluctuating work week" salary. In this situation, the weekly salary is for all hours worked, including overtime hours, except that a worker receives an extra half-hour's worth of pay — rather than time-and-a-half — for each hour worked over 40.*

One new aspect of compensation involves non-discretionary bonuses and commissions. The regulations permit employers to count these toward up to 10% of the new minimum salary amount. However, there are special rules about this as well.

Advice for Employers

As suggested above, companies must accurately record all time worked by workers who are moving from exempt to non-exempt. This requires a system that includes developing and training all hourly workers on time tracking, including work that might be performed outside normal business hours and off premises.

For example, responding to email and phone calls or messages counts as time worked under the FLSA. In some situations, being on call, or traveling, also counts as time worked.

In addition to having robust tracking systems, companies should implement measures by which both workers and the company can verify hours worked. This is needed to minimize disputes. An internal complaint mechanism is also necessary. A model can be the current requirements for complaint mechanisms under a variety of employment laws, such as harassment.

Also, management should expect that these new requirements, and the changes that will be necessary, will contribute to discussion among workers about the changes and how the changes impact them. Federal and state laws permit employees to discuss terms and conditions of employment, including compensation.

"Putting Humpty Dumpty back together is costing a lot of overtime."

Therefore, communication strategies must be considered to minimize morale problems (or worse) arising as a result of, for example, workers being moved from salaried to hourly positions. Many people attach great importance to their status as salaried exempt workers.

In addition, depending on the new hourly approach used, formerly exempt workers who worked long hours (for example, 60 hours a week) may be quite surprised to learn their new hourly rate is lower than they expected.

Also, as workers compare notes with each other about their old and new compensation, there is a risk that people in protected classes (race, color, religion, national origin, gender, age, disability, etc.) may conclude that their pay is unfair or discriminatory.

These changes therefore present management an opportunity to review all their company's payroll practices to minimize existing risk as well as future risk. Now is the time to plan for these changes. ◊

Are You In Need of a Qualified Tax Pro?

If you are not my client and would like to explore whether we might be a good fit, please contact me. As a qualified tax professional, I not only know all the rules, but can also help you deal with the IRS and help you decide how far to push a dispute.

Do You Have A Tough Accounting / Tax Question You Want Answered?

I love hearing from my small business clients and friends who enjoy reading my monthly newsletter. I'm always looking to answer pressing questions you might have relating to small business. If you have a question, tip or idea, please call me at (617) 964-4766 or email me at bob@rgcpa. Perhaps I'll feature you in a future issue!

TAX CORNER

Getting Rid of IRS Interest and Penalties

Owing taxes isn't fun, and the IRS has a unique talent for making it even worse by tacking on interest and penalties. In fact, many a taxpayer has spent more money on interest and penalties than on the actual tax debt itself.

If only we could get rid of interest and penalties. Is it even possible?

Actually, yes. It is possible under certain circumstances to eliminate or significantly reduce penalties. It's called getting an "abatement", and to get it, you need to show the IRS "reasonable cause" as to why you were unable to pay your taxes. Some of the reasons the IRS may accept include:

- *Serious illness*
- Destruction of your home or business, such as by fire or natural disaster
- Reliance on a tax pro who provided bad advice
- The IRS having received inaccurate information
- A customer having sent out the wrong information, such as with a 1099-MISC
- You did not pay the tax bill because of a harsh financial situation

If you feel one or more of these situations applies to you and you're facing hefty IRS penalties, here's what you can do.

Write a clear, concise letter to the IRS explaining your "reasonable cause" from the list above. You will have to attach IRS Form 843, Claim for Refund and Request for Abatement. Include copies of any documents that support your argument, such as a doctor's statement, an insurance claim, etc.

The IRS may reject your abatement request. If that happens, there are still some actions you can take. You can file a protest with the IRS, either by phone or mail. Alternatively, you may seek some other type of relief, such as an offer-in-compromise (although these aren't easy to get).

Another IRS policy to be aware of is its "First Time Abate", which means you can wipe out your penalties (for late filings or late tax payments) IF:

- You did not have penalties for the three prior tax years; and

are current with all filings and have paid all taxes due.

Now, what about suffocating interest? This one is hard to overcome, because interest is required by law. (The IRS essentially assumes that your nonpayment of taxes is a loan.)

However, there's a glimmer of hope. The IRS may consider reducing or eliminating interest if:

- The IRS made a mistake
- You settled with the IRS, which reduced or eliminated your tax, or you received an abatement of penalty. As a result, there is no interest on the changed amounts.
- The IRS sent you a refund check by accident. In this case, the agency will charge interest. No doubt, in this situation you can request a refund for this.
- If the IRS takes too long with an issue, you can seek a reduction in the interest payment.
- You filed a tax return late but live in a federally-declared disaster area.
- You file for bankruptcy, which discharges your IRS debt, or negotiate an offer in compromise (the interest on the reduced amounts will be refunded).

A Classic Thanksgiving Tale

On the night before Thanksgiving, a neighborhood butcher was just locking up his shop when a man pounded on the front door. "Please let me in," the man pleaded. "I forgot to buy a turkey, and my wife will kill me if I don't come home with one."

Feeling sorry for the man, the butcher let him inside. "Let me see what I have left." He went into the walk-in refrigerator and found only one scrawny turkey left. He brought it out to show the man.

"That's too skinny. What else have you got?" the man asked.

Irritated, the butcher took the bird back into the fridge, waited a few minutes, and then brought the same turkey back out.

"Oh, no." The man shook his head. "That one doesn't look any better. You better give me both of them."

Quotes:

"Don't settle: Don't finish crappy books. If you don't like the menu, leave the restaurant. If you're not on the right path, get off it." *– Chris Brogan*

"Our job is to connect to people, to interact with them in a way that leaves them better than we found them, more able to get where they'd like to go." *– Seth Godin*

"If you're looking for the next big thing, and you're looking where everyone else is, you're looking in the wrong place." *– Mark Cuban*

"Marketing is telling the world you're a rock star. Content Marketing is showing the world you are one." *– Robert Rose*

A Talented Dog

A saleswoman walked into an office on a cold call.

The office was empty, but as she waited by the front desk, she saw a dog emptying all the garbage cans. Amazed, she followed him around until he was finished. Then the dog started sweeping the floor with a broom in its mouth.

The dog noticed her and dropped the broom. "Don't look so surprised. It's part of my job. I've been here two years."

Her jaw dropped. "Do they know you can talk?"

The dog looked around. "Yeah, but don't tell anybody. If they find out I can talk, they'll have me answering phones."

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See What's Inside…

Take The Management Approach That Fits

You can't use the same leadership style with every employee. Take a look at these basic approaches and pick the one that works best — depending on your situation:

• **Directive.** This style calls for lots of hands-on training, instruction, and follow-up. Use it with employees who lack skills, maturity, and/or confidence — frequently your newest workers. You'll have to spend more time with them than with your more experienced employees, but it will pay off later in terms of employee productivity and morale.

• **Coaching.** This approach works best for employees who have the required technical skills but need more confidence. Your primary task is to provide feedback on the employee's performance. You may need to prod them into taking on more work and responsibility.

• **Facilitative.** Your role in this model is to ask employees what resources and support they need in order to do their jobs. You still need to monitor performance and offer feedback, as well as to help workers fine-tune the skills they need in order to perform their work with minimal supervision.

• **Empowering.** Experienced, dependable employees allow you to take an empowering approach. You can delegate projects with the confidence that they will be able to perform satisfactorily without your direct involvement. Your goal should be to reach a level where you can use this approach with all your employees.

One Way To Handle Criticism

Ole Bull was one of the greatest Norwegian violinists of the 19th century. On his first concert tour he was unprepared, though, because of unskilled teachers. A Milan newspaper critic wrote: "He is an untrained musician. If he be a diamond, he is certainly in the rough and unpolished."

Instead of reacting angrily to this harsh criticism, Boll went to the newspaper office and asked to see the writer. Then he spent the evening with him, asking about the problems with his performance and what he could do to correct them.

In the end, Boll canceled the rest of his tour and returned home to find better teachers. He studied and practiced for six months until, at age 26, he went back to performing concerts and became a sensation throughout Europe.