



**PATTERSON, HARDEE & BALLENTINE, P.C.**  
Certified Public Accountants

**MEMORANDUM**

TO:  
FROM: Patterson, Hardee & Ballentine, P.C.  
RE: Wage and Hour Overtime Final Ruling

On May 18, 2016, President Obama and Secretary Perez announced the publication of the Department of Labor's final rule updating the overtime regulations. **The effective date of the final rule is December 1, 2016.**

The Final Rule:

- Focuses primarily on updating the salary and compensation levels needed for Executive, administrative and Professional workers to be exempt.
- Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; **\$47,476 annually** for a full-year worker);
- Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.
- A full listing of guidance can be found at: <https://www.dol.gov/whd/overtime/final2016/general-guidance.pdf>

What employer's need to know:

- **Employer's need to maintain records of hours worked** for salaried employees below the compensation level's listed above. PHB will assume a 40 hour work week has been maintained unless specified by you the employer.
- **Overtime pay is required for the salaried employees** listed above who do not meet the annual salary or per week pay exemption if the employee works more than 40 hours per week, regardless of the pay period bi-weekly or monthly.
- **Maintain communications with the PHB payroll processor** regarding any employee who falls under this category and should receive overtime pay in a period. Be aware that in most cases payrolls are processed 4 days in advance.
- **If you have an employee that meets the above requirements** and are concerned they **may work over 40 hours/week consistently**, an adjustment to their pay rate may be beneficial. You have options to decrease this type of economic impact. Contact your PHB payroll processor to discuss these options, if applicable.
- **Employees who fall within the not exempt category** may be paid on an **hourly or salary basis**. Non-exempt employees must be paid no less than the federal minimum and overtime pay at no less than time and one half of the employee's regular rate of pay for hours worked over 40 in a workweek.

