

**NEW DEPARTMENT OF LABOR STANDARDS: A MINIMUM \$47,476 SALARY  
AND THE DISAPPEARING INDEPENDENT CONTRACTOR**

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The Department of Labor (“DOL”) has taken an aggressive approach in setting new standard for overtime exemption and determining when an independent contractor is really an employee. Effective December 1, 2016, \$47,476 is the new minimum salary required for an employee to be considered exempt from overtime requirements for executive, administrative, professional, outside sales, and computer employee. Salaried employees in these positions that are paid less than that amount will be entitled to overtime and the employer will be required to keep accurate records of their hours worked. Up to 10 percent of the salary can be based upon non-discretionary bonuses, incentive payments or commission provided they are paid at least quarterly. Other fringe benefits such as health insurance don’t count. The new threshold amount will be subject to automatic increases every three years.

In addition to raising the bar for the salaried exemption, the DOL has also narrowed the definition of who qualifies as an independent contractor. The DOL will no longer focus on the issue of how much a business controls an individual’s work and will instead focus on the economic dependence the worker has on the employer. The greater the dependence the contractor has on a single business for their earnings, the more likely it is that they will be considered an employee and not an independent contractor. This change will make it much more difficult to consider someone an independent contractor if they are working exclusively for your company. This change reflects a policy decision on the part of DOL that most work should be performed by employees and that independent contractors should only be used sparingly.

If you have any questions on overtime requirements or how to maintain an independent contractor relationship, please contact Bob Halagan, 763-439-8975, rhalagan@gmail.com.