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How Will Employers Respond to New Overtime Regulations?

As of December 1, 2016, employers will face expanded coverage of overtime regulations. Most hourly workers are already, and will continue to be, eligible to receive overtime pay for work over 40 hours a week. However, under the new rules, most salaried workers making less than $47,476 ($22.83 per hour for a full-time, full-year worker) will be eligible for overtime pay. Currently, the maximum salary for qualifying for overtime pay is $23,660, or $11.38 per hour.

The Labor Department estimates that the new rule would currently apply to about 4.2 million salaried workers who earn above the old threshold but below the new one. But how many workers are actually affected by the new rule and what happens to the overall demand for labor will depend a lot on how employers respond.

At this stage, it's not clear just how employers will respond. But based on our conversations with local businesses, employers seem to be considering several options for workers whom the new rule would cover. These include:

- Keeping their salary the same but monitoring and paying for the overtime hours worked.
- Increasing their salary to just above the threshold to avoid paying overtime.
- Splitting the hours worked for the job across more people, possibly by hiring additional staff to work the overtime hours.
- Converting salaried employees to hourly and reducing their base hourly rate so that their total pay will remain the same as under their current salary.
- Curtailing certain business activities, such as networking and training activities, that might occur outside of the standard eight-hour day.
- Reducing staff levels elsewhere in the business and/or cutting other employee expenses to offset the increased cost of overtime.

The first two responses outlined above will result in additional employee costs. But trying to avoid these higher costs could itself prove to be expensive. For example, hiring additional workers to cover the overtime comes with fixed staffing costs—including state and federal unemployment insurance tax on new workers, and perhaps benefits—not to mention any hiring and training costs involved in recruiting new workers. In addition, there is a risk that splitting a job between multiple workers or hiring less experienced workers to cover the extra hours will reduce productivity. Also, staff morale could suffer as a result of any actions perceived as infringing on employee rights or status.

These new rules have many dimensions and potential implications (see, for example, here, here, and here for some discussion), and getting a handle on the effects is complicated by the fact that employer responses will likely differ across industries and possibly even across jobs within a firm. Hopefully, a somewhat clearer picture of the ramifications of the new overtime rule will begin to emerge as the time of implementation gets nearer.

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