Employment Law Alert: The New Minimum Salary Level for OT Exempt Workers is Here

Effective January 1, 2020, the U.S. Department of Labor's white collar overtime exemptions (29 CFR Part 541) will be updated to raise the minimum salary level employers will be required to pay an employee who otherwise meets the white collar overtime exemptions, sometimes referred to as the "EAP" or executive, administrative, and professional exemptions.

The current minimum weekly salary level an employer must pay to take advantage of these overtime exemptions is $455/week ($23,600/annually). **Effective January 1, 2020, the new minimum salary level will be $684/week ($35,568 annually).** New Jersey follows the federal rule on this issue so all employers in New Jersey will have to comply with this new salary level in order to maintain the overtime exemption. Further, each of the 50 states in the United States are free to set a higher minimum salary level. For example, New York State has significantly higher salary levels to qualify for the overtime exemptions. Depending on whether the employer is within New York City or not, and depending on the size of the employer, New York State's law currently sets the minimum salary level between $832/week and $1,125/week.

Failure to comply with the new minimum salary level will result in the loss of the overtime exemption. That means, for those employees whose job duties otherwise would not qualify for overtime, the employer will have to pay those employees overtime for all hours worked over 40 hours during the work week.

An additional change effective January 1, 2020 is the raising of the highly compensated employee exemption from the $100,000/annual level to the $107,432/annual level. Under this exemption, an employer who pays this level of salary has a significantly lighter burden of proof in claiming one of the overtime exemptions.

There are still many twists and turns in these regulations (both the old and the soon-to-be new) so do not attempt to comply without external guidance. Make sure you work with your labor and employment counsel to ensure that you understand these changes and implement them correctly. Failure to do so can result in significant money damages lawsuits against the company and individuals at the company, which are not often not insurable by the company's insurance policies.