MANAGEMENT INFORMATION RELEASE

FROM: **SLOAN, MONTGOMERY, GREGORY & HALL, INC.**

SUBJECT: **PROPOSED SALARY INCREASE FOR EXEMPTION FROM OVERTIME PAY**

DATE: **August 1, 2015**

President Obama recently announced a proposal to increase the minimum salary requirement for an employee to qualify for the executive, administrative, or professional exemption from overtime pay. The proposal would increase the minimum salary from its current level of $455 per week ($23,660 per year) to $970 per week ($50,440 per year). Executive or supervisory employees and administrative or professional employees paid below this new threshold will be eligible for overtime pay if they work more than 40 hours in a workweek. These proposed rules, which do not need Congressional approval, are expected to be implemented sometime in 2016.

Employers should be aware that the minimum salary increases only affect positions that qualify for one of the "white collar" (i.e., executive, administrative, or professional) exemptions. The higher salary rules will not impact positions that are specifically exempt from overtime pay under other Fair Labor Standards Act overtime exemptions. Some of the more common positions that are exempt from overtime pay regardless of whether the incumbent is paid hourly, salary, commission, or some combination of these include:

- Outside salespersons;
- Commission-paid employees in retail establishments who receive the majority of their pay from commissions and meet other requirements;
- Vehicle salespersons, mechanics, and parts employees employed by an automotive dealership;
- Truck drivers involved in interstate commerce who drive a vehicle with a gross vehicle weight of 10,001 pounds and over;
- Certain employees employed in agriculture.

Companies affected by the new higher salary requirements should begin planning now to minimize these higher costs. The easiest solution is to convert employees paid below the new salary threshold to an hourly rate. It is a simple process to arrive at an hourly rate that will yield the same total compensation with overtime pay that the employees currently earn. For example, assume that a salaried employee earns $650 per week and averages 48 hours a week. The eight (8) hours of overtime at time-and-one-half equates to 12 straight-time hours (8 X 1.5). Divide the salary of $650 by 52 hours (40 + 12), which yields an hourly rate of $12.50 per hour. The employee would be paid as follows:

$12.50 X 40	=	$500	
$18.75 X 8	=	150	overtime pay
		$650	gross pay

As actual pay will now be based on hours worked, it will be necessary for the employee to "punch the clock." In addition, the employer will have additional responsibility to monitor and control hours worked to stay within the budgeted payroll.

Going forward, it probably is not advisable to hire any new employees for an executive, administrative, or professional position on a straight salary basis below the $970 per week threshold. The only safe option is an hourly rate with time-and-one half overtime.

If you have questions regarding the topic covered in this Information Release, you may contact our firm, Sloan, Montgomery, Gregory & Hall, Inc., at (803) 782-9246.