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New OT exemption rules delayed to late 2016

The good news: The U.S. Department of Labor has delayed the implementation date for changes to the so-called “white collar” exemptions to qualify for overtime pay. The DOL now reports that rules on the matter are unlikely to be finalized until late 2016.

The bad news: Employers may not have much time to comply once the final rules are issued.

With the presidential election in November 2016, it is fair to assume that the DOL will want any final regulations to take effect before a new chief executive takes office, particularly if the winning candidate is a Republican. So if the final rules are not issued until “late 2016,” as the DOL has stated, employers may have only a month or two to comply.

The Fair Labor Standards Act generally requires employers to pay their workers overtime — at least one and one-half times their “regular rate” of pay for every hour they work in excess of 40 hours in a particular workweek. But certain groups of employees can

be exempted from the overtime pay requirements.

One such exemption, and by far the most commonly used, relates to employees working in jobs that the FLSA describes as executive, administrative, or professional — the so-called “white collar” exemptions. In order for employees to fall within one of the white collar exemptions, they must satisfy two tests: (1) They must perform executive, administrative or professional duties that are further defined in the regulations; and (2) they must be paid a minimum compensation level. The key change being made by the proposed regulations is to raise the minimum compensation level, meaning that fewer workers would qualify for the exemption and more would have to be paid the required time-and-one-half for all overtime hours worked in a workweek.

The current salary threshold to be exempt from overtime pay is \$455 a week or \$23,660 annually. The DOL has proposed updating those thresholds.

Remind employees of the full value of their compensation

Many employees focus solely on their paychecks and don’t always realize the full compensation they receive from their employers. But employees can be reminded of the total compensation package they receive, which in many cases goes well beyond a paycheck, by using a Fringe Benefit Statement.

Businesses might want to include such a statement with each employee’s W-2 Form issued in January. It is important to educate employees about just how much they are worth to the organization by pointing out the total compensation they receive as a valued member of the company.

Total compensation statements give employees information on the complete pay package awarded to them on an annual basis, including both direct and indirect compensation.

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2016 documentary fee maximum announcement expected Dec. 15

The maximum documentary service fee that may be charged in Illinois in 2016 is expected to be announced by the state’s attorney general’s office Dec. 15. The CATA will issue special notice following any announcement.

The increase is tied to the federal Consumer Price Index for the 12-month period ending Nov. 30.

Later this month, the CATA will mail to dealers two copies of a poster regarding the 2016 DOC fee that they can post in their dealerships.

2015 year-end

By MICHAEL SILVER & Co.

CERTIFIED PUBLIC ACCOUNTANTS, CATA MEMBER

Michael Silver & Co. understands that there are a wide range of issues that need to be addressed before the end of the year. Our annual year-end dealer checklist will help you during this process. If you have any questions about the information detailed in the checklist, please contact Phil Kent, CPA, Audit Partner, at PhilK@misco.net or (847) 213-2113.

Year-End Planning

1. Sec. 179 expensing limit for 2015 is \$25,000. Consider placing eligible assets into service before the end of 2015 to take advantage of this expensing limit. There is a bill pending in Congress to increase the limit to \$500,000. At this time, it is unclear if this legislation will pass before the end of the year.

2. If you plan to make any charitable contributions, consider making them in 2015 to receive a tax deduction. Payments by credit card are deductible on the day they are made even if the payment to the credit card company occurs on a later date. The IRS requires written acknowledgment for each contribution of \$250 or more.

3. Confirm you have made all required personal and corporate income tax deposits for 2015, and see that your personal income tax withholding is adequate. You should consider paying all of your personal state income tax by the end of the year in order to take a federal income tax deduction for the state tax; however, you should consult with your tax advisor if you think you may be affected by the Alternative Minimum Tax.

4. Consider maximizing your retirement contributions, \$18,000 for a 401(k) plan [\$24,000 if over age 50], and \$53,000 to profit sharing plans [net of any 401(k) contributions].

5. If you or the dealership owns stock that has unrealized losses, consider discussing with your tax or investment professional the benefit of selling them by year-end to offset realized gains recognized earlier in the year.

6. Confirm you have substantiation for your 2015 meal and entertainment expenses. Travel expenses and the cost of a holiday party for employees or food ordered into the dealership for staff should not be included in this amount.

7. Accrued interest on loans from shareholders and other related parties, as well as rents, must be paid in order for the dealership to deduct these amounts in the current year.

Keep the Accounting Records Open at the End of December

1. Record December finance chargebacks in December.

2. Maximize LIFO deductions. Record all new vehicles that were built and invoiced in 2015 as vehicle purchases in 2015 by keeping the new vehicle purchase journal open the first few days of 2016.

3. Keep your accounts payable journal open to record all 2015 expenses in 2015, including advertising, interest, utilities, telephone, gasoline, data processing, insurance, etc.

4. Adjust your property tax payable account to equal at least the total you actually paid in 2015.

5. If any vehicle deal is not a 100 percent completed deal in 2015 [all paperwork and funding in 2015], then treat it as a 2016 vehicle sale.

6. Make sure all miscellaneous inventories are adjusted to actual, including labor inventory, sublet, gas-oil-grease, body shop materials, etc.

7. Distributions paid to S corporation shareholders should be equalized in accordance to their ownership percentage before year-end.

8. You must include a reasonable estimate of your LIFO adjustment for the year on all versions of your December financial statements. **There are no exceptions.** If there is not a separate LIFO cost of sales account, charge the LIFO estimate to cost of sales in a cost account that has no other activity.

9. Compare your actual parts inventory to the accounting parts inventory and make adjustments where appropriate. Have your parts manager determine which parts should be considered worthless. Subject to your review, dispose of these parts by year-end.

10. All wages and commissions paid in 2016 for 2015 services should be accrued in 2015. Make sure the first payroll in 2016 (even though some portion of the payroll was for 2015 services) is **not** included on your W-2s for 2015, but will instead be on the W-2s for 2016.

a. All accrued payroll for non-shareholders must be paid no later than 3/15/16 for it to be deductible in 2015.

b. If you are a C corporation, make sure you pay any salaries, commissions, or bonuses to stockholders and related parties in December [if their ownership exceeds 50% including related party interests] in order to take a 2015 tax deduction.

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Candidates for employment must submit a full resume to the Editor.

Review past editions dating to 1998 or search by subject at www.cata.info/publication/bulletins.

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checklist for dealers

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c. If you are an S corporation, wages to a shareholder cannot be accrued and deducted for tax purposes. You must pay them in 2015 and include the wages on the 2015 W-2.

11. Reconcile, where possible, all balance sheet accounts before closing the year.

Additional Year-End TO DOs

1. If you are not on LIFO for used vehicles, adjust all of your used vehicles to current wholesale market value at year-end. On an annual basis, used-vehicle LIFO should be discussed with your tax advisor.

2. Under the new capitalization policy you established last year or a few years ago, businesses are allowed to write off small asset purchases. The amount that can be written off is up to \$5,000 per item or invoice if you have an audited financial statement and \$500 per item if you do not.

3. Review all past due accounts receivables, including employee receivables. Write off those receivables that are not collectible.

4. Review prepaid assets and expense all items in this account that are not valid as prepaid at year-end.

5. All payroll tax and sales tax payable accounts must equal the actual amount of the applicable taxes paid in 2016 for the 2015 fourth quarter and year-end filings. The year-end payroll tax accrual can only include taxes owed on wages actually paid in 2015.

6. Compute the Dec. 31, 2015, accrued vacation wages payable and adjust the books accordingly. Vacation wages paid Jan. 1, 2016, through March 15, 2016, are deductible for tax purposes. No vacation accrual is allowed for any shareholders.

7. Review bank reconciliations for checks [including payroll checks more than 60 days old] not expected to clear. These checks should be voided and reissued. Funds owed to payees who cannot be located may be considered unclaimed property, which would require you to remit the funds to the appropriate state agency. Before reissuing a check to a vendor, be sure that it has not been paid with a subsequent billing.

Year-End Tax Reporting

1. IRS Form 1099-MISC must be issued to all businesses that are not incorporated [including LLCs] and received \$600 or more during 2015 for payment of services, awards, commissions, or fees for services. A Form 1099-MISC must be issued for payments to an attorney even if they are incorporated. When preparing the 1099, for those vendors from whom you purchased parts in conjunction with a service, you must report the total payment made to them on the 1099. Also, Form 1099-MISC must be issued for all rents paid to non-corporate taxpayers, including shareholders, and Form

1099-INT must be issued for interest paid to shareholders and any other individuals.

2. W-2s for S corporation shareholders must include in wages health insurance premiums paid by the corporation. This amount is not subject to social security or Medicare tax. If the dealership pays the insurance premiums on behalf of the shareholders' children who are employees of the dealership, the children's W-2 must include the insurance premiums.

3. Under the Affordable Care Act, if you have 50 or more full-time or full-time-equivalent employees, you are considered an Applicable Large Employer. ALEs are required to complete Form 1095-C, Employer-Provided Health Insurance Offer and Coverage for all full-time employees. This form details by month the employer health insurance offered to individual employees. Form 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information must also be completed to transmit the 1095-Cs to the IRS. Employers will be subject to penalties of up to \$500 per return for failing to timely file the returns and furnish the forms to employees.

4. Determine if you are receiving services from individuals who should be considered employees. The IRS provides a voluntary program that will allow you to convert these individuals prospectively from independent contractors to employees with partial relief from penalties and interest including protection from prior year audits of the converted class of workers. Consult your tax advisor for details.

Review Procedures for the Use of Demonstrators to Ensure You Comply With the Current IRS Regulations

1. All individuals who are provided a demo to drive should sign a written demonstrator policy agreement.

2. There are two IRS-approved methods that can be used for full-time salespersons. The first method provides them with tax-free use of the demo. This method is fairly complicated and restrictive. The second method, used by most dealers, is the partial exclusion method. Under this method, an amount is added to wages on a monthly basis. The IRS has provided daily income amounts based on the value of the vehicle. For example, for a vehicle valued at \$25,000, the daily inclusion is \$6. Under this method, employees are not required to maintain logs.

3. For employees who are not full-time salespersons and for any other individuals who drive demos, the annual lease value method is used. The amount included in income is based on personal-use mileage and the IRS annual lease table. The IRS requires that logs be maintained in order to verify business versus personal use of the vehicle.

4. The amount included in income is to be added to each

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2016 fuel economy guide now available for download, display

The Environmental Protection Agency and the U.S. Energy Department have released a preliminary 2016 Fuel Economy Guide, which is available for download and print at www.fueleconomy.gov/feg/download.shtml.

Dealers who sell new vehicles with a gross vehicle weight rating under 8,500 pounds are required to prominently display paper copies of the guide at each location where new vehicles are offered for sale. The guide must be available for free upon customer request.

Beginning with 2008 model year vehicles, city and highway estimates account for conditions such as higher speeds and faster accelerations, air conditioning use

and cold temperature operation. Further details regarding the determination of gas mileage (mpg) ratings are available at www.epa.gov/fueleconomy.

The annual fuel cost estimates in the electronic fuel economy guide are updated weekly to match the Energy Information Administration's current national average prices for gasoline and diesel fuel.

Paper copies of the guide are no longer mailed automatically. To request a paper copy of the guide, call the DOE's Energy Efficiency and Renewable Energy Information Center at (877) 337-3463 or visit www.fueleconomy.gov/feg/print-guides.shtml.

ment. Some common items to include in a total compensation statement are:

- Salary/hourly rate
- Medical benefits coverage [include amount paid by employee and employer]
- Flexible spending account information
- Paid leave [include vacation/sick/PTO, holiday, personal, bereavement, military pay, jury duty, etc.]
- Disability insurance
- Life insurance
- Employee assistance program
- Retirement benefits [include 401(k)/403(b), pension plans, etc.]
- Educational assistance programs
- Relocation expenses

Benefits

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Direct compensation can be defined as "all compensation (base salary and/or incentive pay) that is paid directly to an employee."

Indirect compensation can be defined as "compensation that is not paid directly to an employee and is calculated in addition to base salary and incentive pay (e.g., employer-paid portions of health/dental/vision insurance, retirement benefits, educational benefits, relocation expenses, employee paid time off)."

The more detail that an employer can provide, the more beneficial the state-

Member-discounted tickets to 2016 auto show on sale now

Tickets and vouchers that admit the holder to the 2016 Chicago Auto Show free or at a reduced price can be ordered by CATA members using the order form posted at www.CATA.info.

The passes promote goodwill with customers and even can help persuade a prospect to close a deal. Two kinds of passes are available, General Admission ticket and Weekday Discount voucher. The former, which costs CATA members \$600 for 100 tickets, admits the holder to the auto show free, without a box-office wait. The Weekday Discount voucher costs members \$100 for 100 and admits the holder for \$7 during the week.

Regular admission is \$12. A minimum 100 passes must be ordered with either order.

Checklist

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employee's W-2. Non-employee family member income amounts must also be included in the employee's W-2. This income is subject to social security and Medicare tax. Shareholders not on the payroll and any other non-employees must be issued a Form 1099-MISC for the income.

Other

1. Form 8300 must be filed if you receive cash in excess of \$10,000 from a customer. This includes cashier's checks, money orders and traveler's checks except those issued by financial institutions requiring a lien on the vehicle.

2. If the dealership has a section 125 plan [cafeteria plan], make sure eligible employees complete the 2016 election forms before the first 2016 payroll. Remember that stockholders owning more than 2 percent in S corporations [LLCs, etc.] are not eligible to participate.

3. If you offer a health care Flexible Spending Arrangement [FSA] as part of your cafeteria plan, in order for it to be a qualified benefit under a cafeteria plan, the maximum salary reduction contribution to the health care FSA for 2016 is limited to \$2,550. Stockholders owning more than 2 percent in an S corporation or an LLC are not eligible to participate. If your company offers a qualified high deductible health insurance plan, you and employees might be able to contribute to individual Health Savings Accounts (HSA). Contribution limits for 2016 are \$3,350 for an individual and \$6,750 for a family with a \$1,000 additional contribution for those who are age 55 and over.

4. If you make gifts to individuals each year for estate tax purposes, the payments must be made by year-end.