**Fair Labor Standards Act (FLSA) Summary**

**Fair Labor Standards Act**

* Establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments

What Employers are Covered?

Those with 2 or more employees

What Employees are Covered?

All employees are covered by the FLSA unless they pass all three exemption tests. The first two tests are the easier to determine of the three.

The first test is the Salary Basis Test.  To pass this test, the employee must be paid  a predetermined, fixed salary that is not subject to reduction due to variations in quality or quantity of work performed (with limited exceptions).

The second test is Salary Level Test.  To pass this test, the employee must be paid at least $455 per week or $910 biweekly or $1971.66 monthly or $23,660 annually. **(Note: the Trump administration is currently reviewing the Salary Level amount and may make changes in the future.)**

The third test is the Job Duties Test.  The Job Duties test looks at the employee's responsibilities.  The employee passes this test if they meet all the criteria under one or more of the existing exemptions.

The following are the commonly used five White Collar Exemptions:

* **Executive**: employee must generally be primarily engaged in management, direct the work of 2 or more full-time employees and be authorized to affect the terms and conditions of other employees through hiring, firing, etc.
* **Administrative**: employee must generally be engaged in office or non-manual work related to general business operations and must use independent judgment and discretion with regard to significant matters
* **Professional**: employee must generally perform functions that require advanced knowledge in a field of science or learning
* **Computer:** employee must generally perform functions that require the application of systems analysis techniques, the design or development of computer systems or programs, or the creation or modification of programs relating to operating systems
* **Outside Sales:** employee must make sales and regularly work away from the employer’s business

There are also many others.  A full list can be found on the [DOL's website](http://webapps.dol.gov/elaws/whd/flsa/screen75.asp).

What Must Employers Do?

* Pay employees at least the minimum wage
* Pay non-exempt employees an amount equal to 1.5 times an employee’s regular rate of pay for all hours worked over 40 in a given week
* Abide by rules for employing minors in certain jobs and for limited periods of time
* Keep and maintain records of hours worked by and wages paid to non-exempt employees for 3 years

Note: state laws can impose greater obligations than the Federal rules.