Both the Fair Labor Standards Act (FLSA) and New York State labor law require that to be considered exempt from minimum wage and overtime pay, the duties of the job must meet certain criteria and the employee must earn a certain salary to satisfy the exemption.

Under current New York State law (as of December 31, 2013) executive and administrative employees must earn at least $600.00 per week or $31,200 annually to be considered exempt. Please be aware the salary threshold for the New York State salary test for exemption is increasing effective December 31, 2014, to $34,125 annually ($656.25/week).

Employees earning less than $34,125 annually effective 12/31/14, will no longer be exempt from overtime and minimum wage requirements regardless of the duties they perform. Therefore, as of 12/31/14 if you hire employees in Professional, Administrative, & Supervisory classifications at a salary of less than $34,125 annually, you will be required to convert that to an hourly rate and treat them as nonexempt, hourly paid employees even though the classification is considered exempt. Additionally, if an employee reduces their standard hours, which in turn will result in a reduction in salary that falls below $34,125 annually, they will be required by law to be paid on an hourly basis.

For example, the minimum of the pay range for salary grade 51 on the University’s published wage schedule is $25,200. So if a salary offer is made effective 12/31/14 below $34,125 annually, that annual amount must be divided by 2080 hours (40 hours multiplied by 52 weeks) to come up with the hourly pay rate. The employee is considered nonexempt and paid hourly; all hours worked must be recorded to the minute and overtime paid at a rate of time and one half their hourly rate for hours worked in excess of 40 in a workweek.

If supported by Divisional Finance offices or Finance Administration, an employee that falls below the increased threshold of $34,125 annually may maintain exemption. To do so, a thorough equity analysis should be conducted with the department HR Business Partner and reviewed by the Compensation Division. Justification that supports the salary increase and Wage and Salary guidelines should be documented.

Please be aware that the New York State Minimum Wage is also increasing from $8.00/hour to $8.75/hour effective December 31, 2014. Employees earning less than $8.75/hour will be required to receive a wage increase to meet the minimum NYS requirement. Comprehensive consideration of compression should be considered when increasing compensation, even when it is a regulatory mandate.

Please be aware the following increases will occur to the New York State Minimum Wage and Salary Test for exemption in 2015.

**Effective 12/31/15:**
- New York State Minimum Wage - Increases to $9.00/hr
- Salary Test for Exemption – Increases to $35,100/annually ($675.00/week)

Human Resources will be monitoring Federal regulation changes regarding Minimum Wage & possible changes to the Fair Labor Standards Act (FLSA) criteria and salary test for exemption.

Please contact your HR Business Partner with any questions.

*(HR Intercom September 2014)*