

June 23, 2016

Chairman Steve Chabot  
Small Business Committee  
U.S. House of Representatives  
2361 Rayburn House Office Building  
Washington, DC 20515

Ranking Member Nydia Velázquez  
Small Business Committee  
U.S. House of Representatives  
2361 Rayburn House Office Building  
Washington, DC 20515

**Re: Damaging Repercussions: DOL's Overtime Rule, Small Employers, and their Employees**

Dear Chairman Chabot and Ranking Member Velázquez,

On behalf of WorldatWork, I write today to outline and express our membership's concerns with the Department of Labor's Final Rules Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.

WorldatWork is a nonprofit human resources association for professionals and organizations focused on compensation, benefits, work-life effectiveness and total rewards – strategies to attract, motivate, retain and engage a productive workforce. Our association and affiliates provide comprehensive education, certification, research, advocacy and community, enhancing the careers of professionals, and ultimately achieving better results for the organizations they serve. WorldatWork has more than 70,000 members and subscribers worldwide. Founded in 1955, WorldatWork is affiliated with 70 local human resources associations and has offices in Scottsdale, Ariz. and Washington, D.C.

A key element to an organization's long-term success and its employees is compensation, which influences and affects the communities of where it operates and the U.S. and global economy. There are many approaches to achieving a positive impact on employment relationships, all of which consider a broad array of ideas, values and goals. To achieve these societal benefits, organizations need several degrees of decision-making flexibility to adapt compensation to a mutually beneficial result organized within a public policy parameter.

The U.S. Department of Labor's regulation to amend the exemptions for executive, administrative and professional employees would dramatically impact the ability of WorldatWork's members to maintain the decision-making flexibility needed to adapt compensation to a mutually beneficial result agreed upon between an employer and employee. The increase to the salary level, more than doubling the current level, is going to wreak havoc on small businesses and will be detrimental to many employees' flexible work schedules. WorldatWork agrees that the current salary thresholds should be updated – but more than doubling it in such a short amount of time is going to cause more problems than it will solve.

The triennial update that is equal to the 40<sup>th</sup> percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region will have a significant impact on small businesses as they begin to classify more employees as hourly nonexempt and they fall out of the salaried worker population. WorldatWork's subject matter expert performed modeling based on the new salary level and triennial

update that indicates that after 15 years only 14.9 percent of the exempt population would remain above the 40<sup>th</sup> percentile threshold<sup>1</sup>.

This escalation does not address the issues related to salary compression and the potential effects of forced salary increases over merit increases that will ensue if the current final rule is enforced. This is extremely troubling and counterintuitive to how professional workers approach their careers and commitments in the ever-changing technology-driven world.

Reclassifying employees to nonexempt status likely will lead to other negative consequences. One area of concern is job flexibility. Under exempt status, employees must generally be paid the same salary regardless of the hours worked, and thus, are afforded a level of work flexibility to take a few hours off for an appointment or tend to a family matter without being docked in pay. Nonexempt employees will be forced to take this time as unpaid, which will limit their ability to address personal obligations.

Another area of concern is whether wages for employees ultimately will increase with this change. Labor costs are among the largest costs for most businesses, especially small businesses, and are closely monitored to avoid budget overruns. It is unlikely that employers will increase their overall labor costs by simply paying formerly exempt employees additional overtime. Small businesses likely will offset that cost through some corresponding reduction in other areas of employee compensation. Thus, the administration's goal to increase wages paid to workers may not be realized.

Accordingly, we urge all the members of the Small Business Committee to cosponsor H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*, which would require the Labor Department to conduct a detailed economic analysis before making dramatic changes to federal overtime pay requirements. WorldatWork supported the legislation on March 23, 2016.<sup>2</sup>

WorldatWork applauds your leadership for holding this important hearing and looks forward to working with you and members of the Small Business Committee as the administration moves to execute the regulation. WorldatWork's total rewards compensation experts are the professionals who will be charged with implementing the changes to the overtime exemption and managing organizations' compensation budgets going forward.

Sincerely,



Cara Woodson Welch, Esq.  
Vice President, External Affairs & Practice Leadership

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<sup>1</sup> <https://www.worldatwork.org/Content/publicpolicy/image/Infographic%20-%2040th%20Pct%20Exempt%20Salary%20Erosion.pdf>

<sup>2</sup> <https://www.worldatwork.org/adimLink?id=80101>