

Federal Minimum Wage Rate Is Increasing

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H.R. 2206, or the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, was signed by President Bush on May 25, 2007. Although Congress took out the Iraq "timetable," which caused President Bush to veto the previous bill, Congress added several other items in this replacement bill. Title VIII, Subtitle A, of the replacement bill, the Fair Minimum Wage Act of 2007 ("Act"), amends the Fair Labor Standards Act of 1938 ("FLSA") and will raise the federal minimum wage rate in three stages over two years.

Staged Increases

Effective July 24, 2007, the federal minimum wage rate for covered employees will increase from the current \$5.15 per hour to \$5.85 per hour.

On July 24, 2008, the federal minimum wage rate for covered employees will increase to \$6.55 per hour.

Finally, on July 24, 2009, the federal minimum wage for covered employees will increase to \$7.25 per hour.

State Minimum Wage Laws

Some states have minimum wage rates that are higher than the new federal mandate. (Ohio's current minimum wage rate is \$6.85 per hour, and it increases with inflation every January 1.) In these cases, employees must receive at least the higher state minimum wage rate.

Potential for Increased Liability

Employers liable for minimum wage violations under the FLSA will now face increased liability. FLSA minimum wage violations can arise not only from paying too low of a wage rate, but also from not paying employees at all during their breaks that should have been paid breaks or their time preparing to start or end a shift, if that time were to be found to be working time.

Collective Bargaining Agreements

Employers who are parties to collective bargaining agreements should renegotiate any wage rate that will be below the new federal minimum wage rates.

American Samoa and the Commonwealth of the Northern Mariana Islands

The Act extends the FLSA to American Samoa and the Commonwealth of the Northern Mariana Islands, although the applicable minimum wage rates in those territories will be lower than the federal minimum wage rates for the next several years.

What Every Employer Should Do

- Pay employees at least the minimum wage rate of \$5.85 per hour, when required, and make the required adjustments, if necessary, in 2008 and 2009.
- Post the new federal minimum wage rate posters (even though the state's minimum wage rate may be higher than the federal rate).
- Consider this an opportunity to review or audit the company's overall compliance with the FLSA and applicable state wage and hour laws

Additional Information

To learn more about the Act or the FLSA, please contact Joe Gross at 216.363.4163 or jgross@bfca.com or one of the other attorneys in our Labor and Employment Practice Group. Biographical information for our Labor and Practice Group attorneys is available at www.bfca.com. As a reminder, this Bulletin is being produced to draw the reader's attention to the issues being discussed and is not intended to replace legal counseling.