CLIENT ALERTS & INSIGHTS

UPDATE: Employers Should Anticipate Significant Rise in Minimum Wage Rates Tied to Inflation

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Employers in approximately a dozen states and twice as many cities and counties should expect significant hikes in minimum wage rates for 2023. Many of these hikes are due to state and local laws which account for inflation by automatically tying increases in the Consumer Price Index (CPI) to minimum wage rates. This year's unusually high inflation and resultant CPI growth, however, threatens to raise hourly wages by nearly $1 or more in certain locales.

The city of Denver, for example, recently announced that its minimum wage will rise on January 1 to $17.29 per hour from its current level of $15.87-an 8.94% increase. The wage hike is mandated by a bill signed in 2019, which pegs minimum wage increases after 2022 to increases in the regional CPI. In comparison, Colorado's statewide minimum wage has only risen 2.7% and 1.9% in 2021 and 2022, respectively.

Certain cities already received steep midyear minimum wage increases on July 1 in light of regional CPI changes, including Washington D.C. ($15.20 to $16.10 per hour), Los Angeles ($15.00 to $16.04 per hour), and San Francisco ($16.32 to $16.99 per hour). Other cities expecting large automatic minimum wage increases on January 1 due to CPI indexing include Seattle, WA, Flagstaff, AZ and Palo Alto, CA. In addition, fourteen states have minimum wage increases tied to CPI that take effect in the new year. That includes Ohio, which experienced its largest minimum wage increase in 15 years on January 1, 2022 ($8.80 to $9.30 per hour), and promises to see an even larger increase on January 1, 2023. Another five states will also begin similar increases in future years after concluding schedules of fixed-rate increases. Many of those jurisdictions will announce their new, inflation-based increases for 2023 in October or November. While it is difficult to accurately predict what these increases will be, it is safe to say that they will exceed those in years past.

Cities and states originally included these automatic CPI-based increases in their minimum wage laws to combat the rising cost of living for workers. However, these inflation-based wage floors will put additional financial strain on businesses already struggling to employ a full workforce in a tight labor market. Though some employers already offer wages above these new minimums simply to attract workers, many will be further burdened by these rising rates.

These large automatic increases may ultimately force more cities and states to amend their minimum wage laws to provide for a cap on annual increases. For example, California and Minnesota have both introduced caps for their statewide minimum wage rates for 2023. California will cap its annual statewide minimum wage increases at 3.5%, and Minnesota will cap such increases at 2.5%. These caps are a rarity in minimum wage laws tied to the CPI though, as state

and local legislatures generally did not anticipate the current scenario of both unusually high inflation and a tight job market when passing these laws.

In the short term, however, employers paying parts of their workforce at the state or local minimum wage rate should prepare for significant upticks in their overhead come January 1.

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Ohio's minimum wage for non-tipped workers will increase to $10.10 per hour effective January 1, 2023 - an $0.80/hour hike from the state's 2022 rate. Tipped employees will also enjoy an increased wage, rising from $4.65 to $5.05 at the start of the new year. The increases will apply to employees of businesses with annual gross receipts of $371,000 or more. For employees working at smaller businesses grossing less than $371,000 annually, and for 14- and 15-year-olds, the state minimum wage is identical to the federal minimum wage: $7.25 per hour.

The increase will mark the largest jump in the state's minimum wage since 2007, eclipsing the 2022 increase of $0.50. Ohio makes annual adjustments to its minimum wage based on the rate of inflation and joins several other states and municipalities in increasing their minimum wages for 2023.

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