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Businesses must take action following new overtime rule

Under new Department of Labor rules, employees who make less than $35,568 are now eligible for overtime pay. Starting January 1 the rule raises the salary cutoff for so-called "white collar" exemptions to $684 a week, up from $455 a week ($23,660 annual).

As a result, businesses are advised to evaluate pay rates, hours and nonexempt classifications in advance of the change. Some actions steps:

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- **Review white collar exemptions:** Identify exempt employees whose salaries fall below $684/week. Estimate how many hours these employees work each week. Then decide whether to raise their pay to meet the new threshold or change their status to nonexempt and pay overtime.
- **Review highly compensated employee exemptions:** Identify any employees currently classified as exempt under the highly compensated employee exemption. That threshold will increase to $107,432 per year, from the current $100,000 level. Conduct a similar pay analysis.
- **Adjust time-tracking expectations:** If you will be changing employees from exempt to nonexempt status, be ready to train them on their new timekeeping responsibilities. The Fair Labor Standards Act requires careful record keeping to track the number of hours nonexempt employees work.

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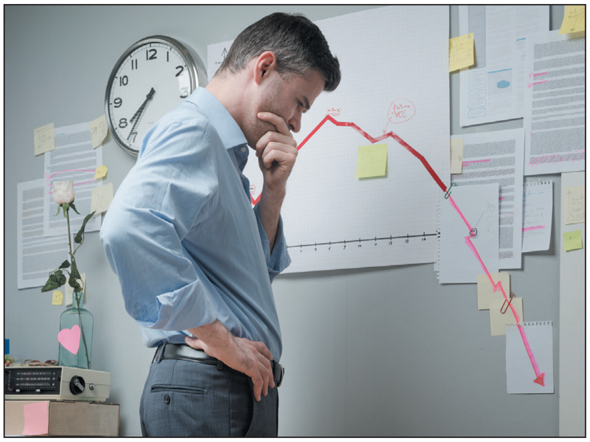
New bankruptcy rules give relief to small businesses

Chapter 11 bankruptcy is not an easy process, and rules have traditionally favored large businesses. Now, distressed small businesses will have a better chance at reorganization under a new subchapter of the federal bankruptcy code.



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The Small Business Reorganization Act of 2019, which will go into effect on Feb. 19, 2020, makes Chapter 11 reorganization a more affordable and feasible process for small businesses. Under the new law, individuals and companies with roughly $2,725,000 of debt (at least 50 percent business debt) may reorganize under a new subchapter that makes the process faster and more affordable.

Notably, the act establishes that an independent trustee will be appointed to oversee the bankruptcy process. That coincides with the elimination of creditor committees and court-approved disclosure statements.

Additionally, the act removes creditor voting and approval requirements. Under a traditional Chapter 11 bankruptcy, a class of creditors must approve the plan in order for it to be confirmed. Now, in qualified small business cases, the court can determine a proposal is fair and equitable over creditor objections.

Finally, the absolute priority rule no longer applies. That rule prohibited business owners from retaining equity, unless all creditors were paid in full. Now, small business owners can maintain an ownership interest, even if creditors are not fully compensated.

Better outcomes overall

Previous requirements scared off many would-be filers. Of those that did make an attempt, less than 27 percent of filings resulted in confirmed plans of reorganization, as reported by law.com. The changes are designed to reduce costs and improve a debtor's ability to survive the bankruptcy process.

Creditors will no longer be able to block small business reorganization plans. With an independent trustee in place, and court control over plan approval, rulemakers hope the process will lead to better overall returns for claimants.

Veterans and farmers

President Donald Trump also signed legislation extending bankruptcy relief to farmers and veterans. Under the Family Farmer Relief Act of 2019, the debt ceiling for a family farm more than doubled.

Similarly, under the Honoring American Veterans in Extreme Need Act of 2019, Congress expanded access to relief for veterans filing under Chapter 13. The change shields veteran disability payments from being considered the type of income individuals must devote to creditors.

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Consider going cash-free, with caution

There's a growing trend toward cashless businesses. From clothing stores to coffee shops to salons, some businesses are implementing cash-free policies. Only credit and debit cards allowed.

What's behind the trend? Cash-free businesses (and credit advocates) say there are a number of benefits:

- **Speed up the checkout process**: It's quicker to swipe or tap a credit card than to count cash and make change. If your business has long lines at peak service times, going cash-free can speed up the checkout process.
- **Reduce the possibility of theft**: Keeping a register full of cash could attract thieves. Cash transactions also represent an opportunity for

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Job rules do not change under the new regulations, and raising an employee salary above the threshold doesn't automatically make them exempt from overtime pay. To qualify for exempt status, an employee's role must be primarily executive, administrative or professional in nature, as defined by the regulations.

The current salary limit was set in 2004 under the George W. Bush administration. Higher thresholds that would have gone into effect under the Obama administration were struck down in court. While the Obama-era rule would have updated the salary limit automatically every three years, the new rule has no such automatic increases. The Labor Department can update the threshold every four years following a notice of proposed rulemaking and comment period.

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If you have not reviewed your employee classifications in a while, or if you have any concerns about adhering to the new rules, this would be a good time to audit your practices. Consult with an experienced attorney for assistance.

Consider going cash-free, with caution

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employees to pocket money and skim your revenue.

- **Improve efficiency**: It takes time to close out cash drawers and make trips to the bank. Going cashless eliminates the time you spend on cash management.
- **Streamline bookkeeping**: Going cashless simplifies accounting work. Every transaction is digitized and trackable for fast, accurate accounting.

However, there are some distinct disadvantages to going cashless. You pay more in credit card fees, of course, and there's no way to accept payment if your credit card system goes down. And you may lose customers who prefer to pay by cash, as well as those who don't have a credit card at all.

Critics cite justice, civil rights concerns

It's the latter customers who have some legislators concerned. They see cashless businesses as discriminatory and elitist, designed to keep low-income people and undocumented immigrants away.

Estimates from an FDIC survey suggest that 6.5 percent of U.S. households are "unbanked," meaning they don't have checking or savings accounts or any kind of traditional banking relationship. But in certain urban areas, the number of unbanked households is much higher.

According to the Pew Research Center, approximately 29 percent of American adults say they don't make a cash purchase in a typical week. People with household incomes of $75,000 and above are more likely to say they didn't use cash, while African Americans and older people were more commonly cash users.

Bans on cash-bans

Philadelphia and San Francisco both enacted bans on cashless stores this year. New Jersey passed a similar law in May, making it the second state in the U.S. to prohibit cashless stores since Massachusetts first prohibited them in 1978. Legislators in New York are working on a similar ban.

Certain transactions are exempt from such bans. In Philadelphia, for example, parking garages can still operate cash-free. So can businesses that sell through a membership, businesses with online or phone-only business models, and operations that sell goods exclusively to employees.

Amazon Go, which not only operates cash-free but also cashier-free, has adapted to the ban by providing cash payment options at select stores.

If you're considering going cashless but are worried about possible downsides, look for ways to encourage customers to pay with a card. You can install cashless ordering kiosks that speed up the ordering process or keep one cash-accepted register.

If you prefer a cash-based model and are considering credit card surcharges or cash-payment discounts, consult an attorney. Surcharge and cash discount rules vary from state to state, and business owners must word these promotions carefully to adhere to regulations.

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Passage of law to boost retirement savings anticipated by year-end

Retirement plan sponsors have been watching Congress closely, waiting on passage of the Setting Every Community Up for Retirement Enhancement Act. The legislation, designed to boost Americans' retirement savings, has implications for small businesses and individual savers alike.

The bill is considered to have strong bipartisan support, and advocates are optimistic it will pass by year-end. If it doesn't pass via a unanimous consent vote this fall, pundits suggest it will be attached to a year-end spending bill.

Helping more small businesses offer retirement plans

The act includes provisions designed to make it easier for small businesses to offer retirement plans. The measure would increase the available tax credit to 50 percent of a small business's retirement plan start-up costs. Under this provision, the maximum credit limit jumps from a mere $500 to $5,000.

In addition, the act would create a new "bonus" tax credit of $500 for new 401(k) and simple IRA plans that include automatic enrollment. The credit would be available for three years and would also be available to small businesses that convert an existing plan to auto-enrollment.

Finally, the act would allow businesses to create a pooled plan with other businesses. That would allow small businesses to outsource administration, ultimately making plan administration more accessible and affordable.

Increasing the savings rate

Among efforts to increase retirement plan participation, the act would:

- Guarantee 401(k) plan eligibility for part-time employees age 21 or older who have worked at least 500 hours per year for the last three consecutive years.
- Change the allowable auto-enrollment rate employers can set for a 401(k).
- Prohibit 401(k) loans via credit or debit card arrangements.

Additionally, the act would push the required minimum distribution age to 72 (up from 70 ½), eliminate age restrictions on IRA contributions, and allow a $5,000 penalty-free withdrawal following a birth or adoption.