Payroll Pinch from the Department of Labor?

WHAT THE OVERTIME PAY RULING COULD MEAN FOR YOU

***by David Gould,** Staff Editor*

A nine-page letter signed by golf's major associations was mailed last fall to Mary Ziegler, a higher-up in the Wage and Hour Division of the U.S. Department of Labor. Signees from the PGA of America, the superintendents' group, two private-club groups and the course owners association raised a red flag about a new employee-compensation rule being formulated under the Fair Labor Standards Act (FLSA).

Finally issued last month, the rule redefines eligibility standards for overtime, increasing the pay level at which salaried executive, administrative, and professional workers can earn time-and-a-half for working 40-plus hours per week. The new rule, effective December 1 (if it isn't delayed or derailed) roughly doubles the threshold to $47,476 a year, from $23,660 a year, for certain workers. That increase (which could get bumped higher again in 2020) is expected to affect nearly five million managers—indeed, there are seemingly lots more "managers" whose pay falls in the $23K-to-$47K range than in the under-$24K level.

Like your typical minimum-wage increase, this regulatory action was seen by many as likely to produce unintended consequences—negative ones. The PGA went so far as to distribute a Powerpoint document expressing strong misgivings about the new overtime rule. An action statement at the end of it stated that the PGA would be "urging Congress to pass legislation requiring the Department of Labor to conduct additional economic analysis… and coordinating activities with business coalitions which may consider legal action."

Industries in the crosshairs are those with managers and supervisors who work fairly long hours for rather mediocre pay. When Forbes magazine went to express its editorial dismay about the rule, it did so by running an opinion piece by the CEO of the company that owns Hardee's, Carl's Jr. and other chain restaurants. Andy Puzder, the CEO who voiced complaint, cited DOL's belief that the rule would "increase middle-class wages… and help millions of workers get back into the middle class." Puzder then opined that, "as with the Obama Administration's other efforts to regulate their way to economic prosperity, it will not deliver as promised." Fast-food restaurants have many a manager salaried in the $30,000s and low $40,000s—that's clear enough.

The Wall Street Journal offered a similar critique, asserting that the Wage and Hour Division "overlooks the most likely response by employers—namely, to cut employees' base salaries, when feasible, in reaction to the overtime regulation." The Journal further stated that this idea has been tried before without success, saying: "Empirical studies reveal little evidence that overtime-pay regulations result in greater pay or more employment."

So, if the PGA of America—along with the GCSAA, NGCOA and leading financial publications—is this worked up about the rule, should Proponent Group members share their concern? California-based Proponent member Don Parson, a dedicated career instructor and, more recently, a golf course owner, doesn't think so. "In my opinion," says Parsons, "this change in the overtime rule won't create problems for a course owner or a golf academy owner unless they were exploiting their employees in the first place."

Indeed, the prominent factor to note for employers and employees up at the Proponent Group tier of golf instruction is that sub-$50,000 annual salary level, in combination with the "manager" designation. It's hard to think of many Proponent members who fit that description—golf operations seems far more likely to be affected by this development.

In the PGA's message to regulators it noted that "33.6 percent of active PGA Class A Members and 84.3 percent of Apprentices earn less than $47,500 in total compensation." Meanwhile, this year's Proponent Group data on compensation shows that, "for members who are Employees, average income in 2015 was $113,189, while for Associate Members average income was $75,559."

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First Take on the New Overtime Rule

- Independent contractors aren't impacted, only salaried employees.
- Staff instructors earning a salary over $47,476 won't be affected.
- For golf-ops, in short-season areas, the rule could feel legitimately onerous.
- One odd consequence: salaried managers will be punching a time clock.