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will continue to have an effect in the year ahead, according to Paychex, a provider of payroll, human resource, insurance, and benefits ...

Aug. 28, 2015



For businesses struggling with staying up-to-date on the latest regulations coming out of Washington and their local jurisdictions, the summer of 2015 has been anything but lazy.

“A major ruling on the Affordable Care Act, coupled with news of the Department of Labor’s proposed overtime rule, has meant a busy and potentially uncertain time for business owners this summer, “ said Martin Mucci, Paychex president and CEO. “Paychex keeps a close eye on the regulatory landscape to help businesses plan and prepare for the changes ahead.”

Here is a list of the top regulatory issues that impacted businesses this summer and

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continue to qualify for premium tax credits.

What businesses need to know: Businesses that are defined as Applicable Large Employers (ALE) under the [ESR provisions](#) will continue to be subject to its requirements, including the requirement to file informational Forms 1094-C and 1095-C with the IRS. In order to comply with ESR requirements, ALEs:

- must track and report to the IRS beginning with this tax year:
 - o full-time employee status*,
 - o offers of health coverage, and
 - o the affordability and adequacy of coverage offered to full-time employees.
- may be subject to penalties for not offering their full-time employees and dependents affordable and adequate health insurance.

**The Employer Shared Responsibility provisions of the ACA define a full-time employee as one who works 30 or more hours a week on average. This is different from what many consider the traditional definition of 40 or more hours a week.*

2. U.S. Supreme Court Ruling on Same-Sex Marriage. On June 26, the Supreme Court released its decision on the legality of same-sex marriage in the United States. By a 5-4 ruling, the Court held that the 14th Amendment requires a state to license a marriage between two people of the same sex and recognize a same-sex marriage lawfully performed outside the state. Same-sex couples who are legally married may now be eligible for the same benefits available to opposite-sex married couples.

What businesses need to know: Spousal benefits mandated by federal law must

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protections. The DOL last updated these regulations in 2004 with a minimum salary threshold of \$455 per week (\$23,660 per year) for the impacted white collar exemptions. Under the proposed rule, the DOL is suggesting the minimum salary level for these exemptions be set at the 40th percentile of earnings for full-time salaried workers, estimating a 2016 level to be about \$970 a week, or \$50,440 a year. The rule change is now going through a public comment period and is expected to be finalized sometime in 2016.

What businesses need to know: In preparation for the new rule, many businesses are reevaluating how they staff and operate their businesses. Adjustments to worker classification, evaluation of wages, review of similar state laws, and carefully tracking employee hours are among the top considerations related to this issue for employers.

4. **Mandatory Sick Leave.** Due to recently passed legislation, ballot initiatives, and local ordinances across the country, certain private employers are or will be required to offer employees [sick leave](#). Currently, there are no federal regulations or guidelines mandating private employers to provide paid sick time to employees, although certain employers must provide unpaid leave under the Family and Medical Leave Act for qualifying reasons. All of the activity to date regarding mandatory paid (and sometimes unpaid) sick leave has occurred at the state and local level. While only the District of Columbia and four states currently have sick leave laws on the books (California, Connecticut, Massachusetts and Oregon), more than 20 local jurisdictions have passed ordinances and the movement is expected to continue to grow.

What businesses need to know: Business owners should expect additional changes to be on the horizon related to mandatory sick leave. Complying with the latest sick

leave laws and regulations is important and may also include detailed notice,

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with the applicable minimum wage laws.

6. Increased Enforcement of Employee Classification. The DOL recently issued [Administrator's Interpretation 2015-1: The Application of the Fair Labor Standards Act's "Suffer or Permit" Standard in the Identification of Employees Who Are Misclassified as Independent Contractors](#). In the document, the DOL generally concludes that most workers are employees under federal wage and hour law. The DOL is concerned with the [intentional misclassification of employees](#) as independent contractors on the part of employers as a means to reduce costs and avoid compliance with employment laws and regulations.

What businesses need to know: According to the DOL, the economic realities test is used to determine whether a worker is an employee or independent contractor, while emphasizing that **all of the economic realities factors must be considered in each case, and no one factor can determine whether a worker is an employee.**

The DOL's interpretation clarifies the enforcing agency's position on the issue, but is neither regulation nor legislation. Because it is not yet known how the DOL will apply this guidance to individual employers, businesses are encouraged to review the agency's interpretation and use caution when classifying workers as independent contractors.

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