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Labor and Employment Update: Is Your Business Ready For The Minimum Wage Increase In July?

By Ronald J. Stolkin and Anthony B. Golden

On July 1, 2008 Nevada's minimum wage will increase. A second increase will occur on July 24, 2008 with a federal minimum wage increase. Nevada law requires that Nevada employees be paid at the greater of either the state or federal minimum wage. These increases will affect employees with and without qualified health plans and they will affect overtime payments to employees.

July 1, 2008 Increase (Nevada)

Employees with Qualifying Health Plans ("tier-1" employees)

Regular time: Starting July 1, 2008, Nevada's minimum wage will increase to \$5.85 per hour for "employees to whom qualifying health benefits have been made available by the employer." Qualifying health benefits is a health care plan at a cost to the employee of 10% or less than the employee's gross taxable income. This increase pertains to employees working regular time (40 hours or less per workweek and 8 hours or less per workday).

Overtime: If an employee works more than 40 hours in a week or 8 hours in any workday and is regularly paid less than \$8.775 per hour ($\5.85×1.5), the employee must be paid 1 ½ times his or her regular wage. For example, if an employee is regularly paid \$6.00 per hour, his or her overtime pay will be \$9.00 per hour ($\6.00×1.5).

Employees without Qualifying Health Plans ("tier-2" employees)

Regular time: For employees who do not have qualifying health plans available to them, the minimum wage will increase on July 1, 2008 to \$6.85 per hour.

Overtime: For employees who are paid less than \$10.275 per hour ($\6.85×1.5) for regular time, they must be paid 1 ½ times their regular hourly wage for hours worked in excess of 40 hours in a workweek or in excess of 8 hours in any workday. Therefore, an employee regularly paid \$8.00 per hour must be paid \$12.00 per hour for overtime.

July 24, 2008 Increase (Federal)

The above payment scheme for employees with qualifying health plans will be altered on July 24, 2008 when the federal minimum wage increases to \$6.55 per hour. Because the federal rate will be greater than the state rate for these employees, the federal rate prevails.

Therefore, starting on July 24, 2008, Nevada employees with qualifying health plans must be paid a minimum wage of \$6.55 per hour for regular time and 1 ½ times their regular wage for overtime if they earn less than \$9.825 per hour for regular time.

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The federal increase does not affect wages paid to employees without qualifying health plans because the Nevada minimum wage for those employees is already above the federal minimum.

What Employers Must Do

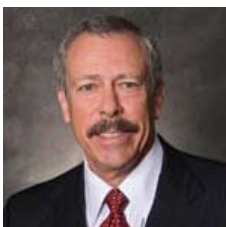
Employers must “provide written notification of the rate adjustments to each of its employees and make the necessary payroll adjustments by July 1 following the publication of the bulletin [published by the Nevada Office of the Labor Commission on April 1 of each year describing the wage adjustments].” Copies of the Labor Commissioner’s bulletin can be obtained on the website for the Labor Commissioner at <http://www.laborcommissioner.com>.

Summary of Minimum Wage Increase

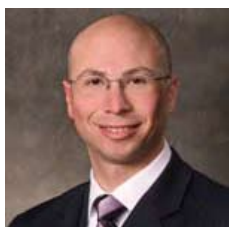
	<u>July 1, 2008</u>	<u>July 24, 2008</u>
Minimum Wage with qualified health plan	\$5.85	\$6.55
Minimum Overtime Pay with qualified health plan	\$8.775	\$9.825
Minimum Wage without qualified health plan	\$6.85	\$6.85
Minimum Overtime Pay without qualified health plan	\$10.275	\$10.275

Ronald J. Stolkin is co-chair of the firm’s labor and employment law practice. Mr. Stolkin counsels management on personnel practices, employee discipline and labor relations. He defends employers in litigation alleging employment discrimination, breach of contract, wrongful discharge and other employment related torts. He has represented clients in connection with a broad range of employment related issues before government agencies such as the EEOC, the Department of Labor, the Arizona Civil Rights Division, and the Department of Education, and has counseled clients on a wide range of employment issues including employment handbooks and personnel policies, employment-at-will issues, wage/hour issues, drug and alcohol policies, sexual issues, employee disability issues, and leave of absence issues. He earned his B.A. (1967) and his J.D. (1970) from The University of Arizona.

Anthony B. Golden focuses his practice in the areas of commercial litigation, business and finance, and real estate. Before joining Fennemore Craig, Mr. Golden worked as a judicial law clerk for the Honorable Nancy A. Becker at the Supreme Court of Nevada. He earned his B.S. (2001) from The University of Redlands and his J.D. (2004) from The University of San Diego School of Law.



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