

Understanding the New Overtime Tax Policies in the Big Bill

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman, and today we are talking about the big beautiful bill, which was recently passed through Congress and signed by the President.

Obviously it's been making headlines for a lot of reasons. It's big. And it's got lots in it, as the name suggests, it's a big bill with lots of meat to it. One thing though that, relevant to us and our clients, one of many things within that bill that are relevant is the new tax policies related to overtime wages.

What's the latest and what should employers know? Russell.

Russell Berger: The short version is and I don't think this is the right forum to try to detail kind of all the nuances of it because there's eligibility, there's income limits, there's nuance to it.

But the simplified version of it is there are tax breaks available for overtime [00:01:00] earning, for the employees that are required to be paid overtime pursuant to the FLSA. What that means is, as an employer, you pay your employee, you pay your employee overtime as required by the FLSA, and when they file their taxes, they can get, I don't know if credit is the right technical word under the tax code, but there will be, creditor deduction or at least a tax benefit is probably the best way I can say it. Related to that. So they won't get taxed on a certain amount of overtime earnings under some aggregate thresholds.

Sarah Sawyer: And the part that's going to be relevant to this is the way that the IRS is going to know about those overtime hours is that the employers are going to have to include them on the W2 forms.

So that will be, a big change just in the way that people are operating. And that is, as you mentioned for overtime wages that folks are entitled to under the FLSA. There is some nuance to this, just like with everything. And so, I don't want to dig too deep here, but it is going to mean that, employers are going to have to say, all right, we [00:02:00] definitely owe this overtime under FLSA. Because there are some arrangements sometimes too, where people are paying overtime as incentive pay or, they might be calling it overtime, but it's really some other type of pay that isn't actually overtime under the FLSA and someone's paid a salary and they're exempt.

There might be a little nuance in that category as well, in addition to the thresholds. And so some of this will be on employees to figure out with their accountants on what the thresholds are and. What it looks like for them from a tax perspective and when they file their taxes, but it'll also be, something that employers will have to be looking at as well.

Russell Berger: Yeah. And in theory, you're already tracking this because you're paying it so it's in the time records it's being recorded. I imagine most systems will make, transferring that to a W2, a relatively easy process. It's just another thing as an employer that you need to be mindful of and from a technical compliance standpoint, but also from the standpoint of, the value of working an overtime hour is [00:03:00] greater.

Because you're not paying taxes, employees aren't paying taxes on it. Like they're clearing more of that. So they're getting paid more, net for that time. And maybe it will cause some employees to want to work more overtime. Maybe there'll be more competition for overtime.

And it's not necessarily a bad thing that people are raising their hand to work more. But, maybe you don't want to pay them time and a half because generally speaking, we say, why pay a 50% premium for, an hour of labor when you can just hire somebody else? I think it's going to present some practical challenges for how, business owners manage through this as well.

Sarah Sawyer: Yeah. And in some industries it might be helpful to the fact that it motivates people to work overtime in instances where you need it. It might be helpful. Definitely something to manage as overtime is always something to manage, given the cost as you mentioned.

Russell Berger: Yeah. Look, it's not a bad thing that your employees are going to get more money for doing the same work, and you're not going to have to pay for it. That's positive. But there are unintended consequences that, happen with every decision and every policy change.

So, these are just things to be mindful of as this [00:04:00] evolves.

Sarah Sawyer: Well, thanks Russell, and we'll see you next time.

Russell Berger: Thanks, Sarah.