Korn Ferry Survey: Despite Injunction to FLSA Overtime Ruling, More Than Half of Retail Companies Still Plan to Comply

LOS ANGELES, Nov. 30, 2016 — A spot survey of U.S. retailers by the Korn Ferry division of Korn Ferry (NYSE:KFY) finds that more than half (56 percent) of respondents plan to comply with the planned Fair Labor Standards Act (FLSA) overtime rule for exempt employees on the date it was to go into effect, despite a Nov. 22 injunction that puts the plan on hold.

The overtime rule, which was set to go into effect Dec. 1, would have had an immediate impact on exempt employees who earned less than $47,476, as these employees would now be eligible for overtime time-and-a-half pay.

“This injunction came just eight days before the ruling was to go into effect and many retailers had already either communicated or implemented plans, so

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was not driven by market practice and represents a significant cost to many retailers. The retailers that do not plan on making immediate changes are in a 'wait and see' mode."

Nearly one quarter (24 percent) of respondents say they will not implement changes due to the injunction and will wait for the ruling, and 21 percent say they will make changes on a case-by-case basis.

The survey found that nearly two-thirds (65 percent) of those who had planned to increase exempt employees to the $47,476 salary threshold still plan to do so, with 35 percent saying they will wait for the ruling.

Also, when considering what they will now do with exempt employees they planned to make non-exempt to comply with the ruling, 35 percent say they will keep them exempt and not pay overtime, and 65 percent say they will make them non-exempt and pay overtime.

More than half (51 percent) of respondents say that despite the injunction, they will still offer new exempt employee hires the FLSA minimum rate of $47,476, even if the new hires were in jobs that previously earned a lower base salary.

big issue for retailers," said Rowley. "It has yet to be seen how exactly this will change the industry when and if the ruling goes into effect."

About the Survey

The Korn Ferry survey of 68 retailers representing nearly $1 trillion in revenue was conducted from Friday, Nov. 25 through Tuesday, Nov. 29, 2016.

Survey Responses

What is your company planning to do with the implementation of the new FLSA regulations in light of the November 22nd injunction?

- We already implemented our changes prior to December 1st 31%
- We will go forward as planned and implement our changes effective December 1st 25%
- We will implement changes for a portion of our employees, depending on the circumstances for each position 21%
- We will not implement changes December 1st and will wait until final resolution of the legal case 24%

For exempt employees who you were

- Increase their salary to at least $47,476 or higher 65%
- Keep base salaries the same and wait for final ruling 35%

What is your company planning to do for new exempt employees you hire who are in jobs you previously paid less than $47,476 in light of the injunction?

- Hire them in at the FLSA base salary rate of $47,476 or higher 51%
- Hire them at a rate lower than the FLSA rate of $47,476 43%
- No change we already pay employees higher than the FLSA rate of $47,476

How big of an impact will the new FLSA regulations have on your organization?

- Limited number of employees impacted 41%
- Moderate number of employees impacted 32%
- Significant number of employees impacted 27%

For those exempt employees that you were planning on making non-exempt, what action will you now take?

- Keep them as exempt and don't

pay them overtime 33%

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