



NEWS ALERT – EMPLOYMENT LAW

CALIFORNIA COMPUTER SOFTWARE EXEMPTION RATE TO INCREASE ON JANUARY 1, 2012

The California Department of Industrial Relations announced that beginning January 1, 2012 the computer-professional overtime exemption rate would increase from \$79,050 to \$81,026.25, an increase of 2.5%. Additionally, qualifications for the exemption involve specific duty requirements: 50% of an employee's time must be spent engaged in computer systems analysis, programming and development of computer systems, and/or testing and modification of design aspects of software and hardware. An employee must also exercise theoretical and creative application of these duties.

The computer software professional exemption is found under California Labor Code 515.5 and computer programmers rely on for guidance on overtime payment. California exempt computer professionals must work as many hours as their employers request, and are not entitled to overtime pay, or timely meal and break periods if they qualify for exempt status. In many cases, computer professionals are non-exempt because they do not meet the specific duty requirements, and are thus entitled to overtime pay under California Labor Code 515.5.

The difference between the Computer software exemption in California and the Federal exemption is the California pay minimum of \$38.89 per hour (in 2012) is materially higher than the federal standard of \$27.63 per hour. Also, the exclusions contained in state law in California are not found in the federal law.

For more information on the rate change go to:
<http://www.dir.ca.gov/dlsr/ComputerSoftware.pdf>