

Oregon Enacts Sweeping Change to Minimum Wage Law

By Shane P. Swilley– Employment Law Group

On March 2, 2016, Oregon Governor Kate Brown signed legislation that will raise the minimum wage across the state through a first-of its-kind three-tiered system based on where the employer is located. The first increase is scheduled to take effect on July 1, 2016, with annual increases thereafter. The following chart illustrates the scheduled increases:

Effective Date of Rate Increase	Tier 1. Base Rate	Tier 2. Rate within Portland's Urban Growth Boundary	Tier 3. Rate within Nonurban Counties
July 1, 2016	\$9.75	\$9.75	\$9.50
July 1, 2017	\$10.25	\$11.25	\$10.00
July 1, 2018	\$10.75	\$12.00	\$10.50
July 1, 2019	\$11.25	\$12.50	\$11.00
July 1, 2020	\$12.00	\$13.25	\$11.50
July 1, 2021	\$12.75	\$14.00	\$12.00
July 1, 2022	\$13.50	\$14.75	\$12.50

Employees will need to be paid at least the base rate unless the employer is located within the Urban Growth Boundary or a “nonurban county.” Employers located within the Urban Growth Boundary – an area encompassing the City of Portland and much of the greater tri-county area (Multnomah, Washington, and Clackamas counties) that is managed and periodically expanded by Metro – will need to pay the rate under Tier 2. Employers located in the “nonurban counties” of Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler will pay the lower rate under Tier 3.

Starting July 1, 2023, the base rate will be adjusted annually for inflation. Tier 2 will be set at \$1.25 above the adjusted base rate, and Tier 3 will be set at \$1.00 below the adjusted base rate.

The new law does not change the limited statutory exemptions already in place that exempt certain categories of employees from having to be paid minimum wage, such as outside sales persons. If an employee currently fits the requirements for one of those exemptions, you do not need to increase their pay. However, the new law may affect how much you pay your salary-exempt employees. Generally, salary-exempt employees must be paid a salary that is at least equal to what an employee would earn working 40 hours per week at minimum wage. If you have questions about whether an employee is exempt, or is being paid appropriately, you should consult with legal counsel.

Finally, the law doesn't prevent cities and counties in the state from establishing a higher minimum wage. Therefore, you will want to keep abreast of what your local government is doing in this regard.

TAX ALERT: PARTNERSHIP AUDIT RULES ARE CHANGING

By Lori A. Sills – Business Practice Group

If you are a member of a partnership (including an LLC taxed as a partnership) you should take note of recent changes to the partnership audit rules. Last winter, Congress passed the Bipartisan Budget Act of 2015 (“the BBA”) which repealed the partnership audit and litigation rules under the Tax Equity and Fiscal Responsibility Act of 1982 (“TEFRA”) and replaced them with a new centralized audit regime that assesses and collects tax at the partnership level. The BBA changes the audit procedures for partnerships and affects all tax years beginning January 1, 2018.

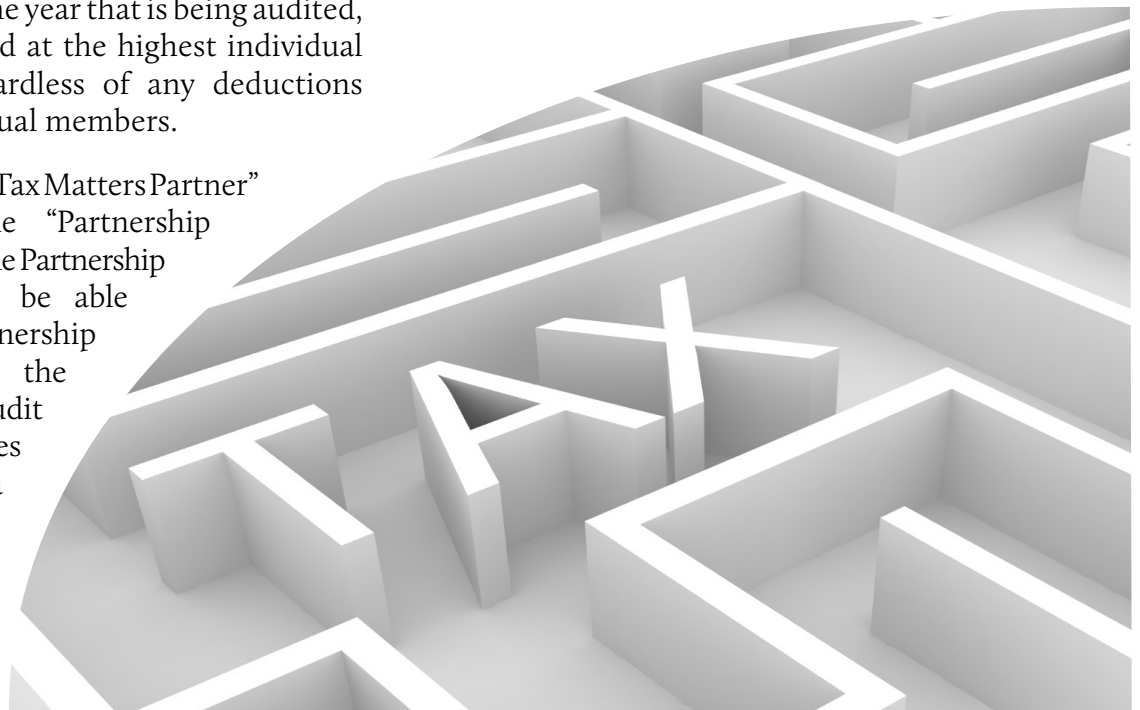
Although 2018 seems far off, we recommend planning ahead now by updating your partnership agreements and getting ready for the change in audit procedures. Beginning January 1, 2018, all partnerships which have trusts or other partnerships as members will be unable to elect out of new entity-level audits by the IRS. This means:

- The partnership – not the individual members – will be responsible for audit adjustments.
- Taxes due will be assessed in the year the audit is conducted, not the year that is being audited, and will be assessed at the highest individual rate of 39.6% regardless of any deductions available to individual members.
- Say goodbye to the “Tax Matters Partner” and hello to the “Partnership Representative”. The Partnership Representative will be able to bind the partnership (and therefore the members) in any audit proceeding; does not need to be a member; and, if the partnership has not named

one, the IRS may select any person as a Partnership Representative.

For example, under the new rules, if a 2018 partnership return is audited in 2020 and adjustments are made, the IRS will assess those adjustments at a 39.6% rate against the partnership in 2020 regardless of whether the 2018 members are still members in 2020. This means that, in the event of a sale or exchange of partnership interests prior to 2020, later members could bear the burden of tax liability actually incurred by the 2018 members. Furthermore, unless the partnership agreement expressly addresses the partnership collecting later-assessed taxes from past members, the current members will be responsible for replenishing the partnership’s coffers to offset the taxes the partnership must pay.

For more information about these new partnership audit rules and what you need to do to get ready for them, visit our business and estate planning blog at blog.cosgravelaw.com.



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If you have any questions about the content of this newsletter, please contact Shane P. Swilley at (503) 276-6074 or swilley@cosgravelaw.com.

Take advantage of our free consultation to review the current state of your employment policies and procedures. This service is invaluable to ensure compliance with current employment laws. For more information or to schedule an appointment, contact Shane Swilley.

If you or your company has been threatened with litigation, or a lawsuit or complaint has been filed, then contact the head of Cosgrave's Employment Law Group, Tim Coleman, at (503) 219-3810 or tcoleman@cosgravelaw.com for a consultation.