



THE SALVATION ARMY NATIONAL HEADQUARTERS

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WILLIAM BOOTH
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August 28, 2015

Comments to Proposed Rule Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

Regulatory Information Number 1235-AA11

Ms. Mary Ziegler
Director of the Division of Regulations,
Legislation, and Interpretation, Wage and
Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue, NW
Washington, DC 20210

Dear Ms. Ziegler:

As the National Commander of The Salvation Army in the United States, I am submitting these comments to the proposed regulations published in the Federal Register on July 6, 2015 (the "Proposed Regulations") that would amend 29 C.F.R. Part 541, the regulations issued under the Fair Labor Standards Act (the "FLSA") to implement the exemption from the minimum wage and overtime requirements of the FLSA for executive, administrative, professional, outside sales and computer employees (the so-called "white-collar" exemption). In particular, The Salvation Army wishes to comment on the provision of the Proposed Regulations that would increase the minimum salary level that must be met to qualify for the "white-collar exemption" from \$455 per week (\$23,660 per year for a full year work) to the 40th percentile of earnings for full-time salaried workers, anticipated to be \$970 per week (or \$50,440 per year for a full-time worker) by the effective date of the Proposed Regulations. The Salvation Army also wishes to comment on the proposal that the applicable regulations include a mechanism to automatically update the



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salary and compensation thresholds on an annual basis using either a fixed percentile of wages or the consumer price index.

By way of background, I note that The Salvation Army is an international religious and charitable organization and a branch of the Christian Church. Founded by General William Booth in London in 1865 and active in 127 countries throughout the world, the mission of The Salvation Army is to preach the Gospel of Jesus Christ and to meet human needs in his name without discrimination. In furtherance of our mission, we offer religious and charitable services throughout the country to those most in need. In the United States, in addition to over 1,200 Corps Community Centers (our places of worship), we operate over 1,500 religious and charitable institutions, including Harbor Light Centers (16), senior citizens residences (71), other residences (16), senior citizens centers and clubs (272), community centers and boys/girls clubs (339), camps (46), children's residential care (17), children's day care centers (96), adult day care centers (10), group homes for temporary housing (583), clinics (24), and rehabilitation centers (126).

At the outset, I want to reiterate The Salvation Army's commitment to the working poor of this country. Many of those we serve struggle to secure and maintain employment, and we know from first-hand experience that a job that pays a fair wage is critical to their dignity and well-being. Accordingly, we unequivocally support the minimum wage and overtime protections afforded by the FLSA. Consistent with its commitment to the working poor, The Salvation Army has determined to comply generally with the minimum wage and overtime provisions of the FLSA with respect to its lay employees, notwithstanding the fact that its ministerial



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personnel and many of its religious and charitable facilities fall outside the scope of the FLSA as non-profit religious and eleemosynary activities.

With this background in mind, we respectfully urge the Wage and Hour Division to reconsider the substantial increase in the minimum salary threshold for “exempt” employees that is contemplated by the Proposed Regulations. Like many non-profit organizations in this country, The Salvation Army faces significant budget challenges and we are concerned that the proposed increase in the minimum salary for “exempt” employees would substantially increase the cost of delivering our services, most of which are provided free of charge. Based on information that has been collected to date, it appears that 50% or more of our employees nationwide who are currently classified as “exempt” would become “non-exempt” if the minimum salary threshold is raised to the level contemplated by the Proposed Regulations. The significance of the effect of this change to our organization cannot be over-stated.

First, to implement procedures to track the weekly hours worked by 50% of our previously “exempt” staff, it is likely that our local units would be required to purchase and administer costly systems to schedule, track and monitor the time worked by previously “exempt” employees, particularly for those who work remotely. Our local operating units would also be faced with the cost of compensating these employees for weekly hours worked above 40 at 150% of their base hourly wage (or increasing their salaries to the new “exempt” level). Particularly for programs that are funded under long-term government or private contracts, it is unlikely that The Salvation Army would have the resources to cover these increased compensation costs. We



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anticipate that staff cuts would therefore become necessary and that we would be required to reduce the religious and charitable programming that we provide nationally.

It is also significant, in our view, that only guaranteed base compensation is counted towards the exemption threshold. This ignores the substantial value of other benefits that we provide to our employees, including items such as family health benefits, pension, disability, paid time off, life insurance and educational assistance. If these benefits are not considered in calculating the exemption threshold, we could be forced to consider reducing our benefit packages to fund the additional overtime pay and other costs that we would incur under the proposal. It is clear in this connection that the exemption rule favors employers that choose to compensate their employees in base salary as opposed to other benefits.

In addition to the strictly financial impact, we anticipate that a reduction by 50% of the number of employees who are considered "exempt" would have a substantial negative impact on the morale of our "white collar" staff. Many of our employees turn down higher salaries in other industries to take lower paid positions with The Salvation Army because of their desire to serve those in need, and the classification of their positions as "exempt" is seen as a symbol of respect and can be very important to their self-esteem. Removing this sense of pride for as many as 50% of our currently "exempt" employees would have a material impact on our overall workforce.

At a minimum, The Salvation Army respectfully urges the Wage and Hour Division to consider implementing the proposed increase in the salary threshold over some meaningful period of time, so that organizations such as ours can gradually adjust our budgets and minimize the impact on our devoted "exempt" employees, both to be able to continue to deliver our much needed



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services and to avoid a significant negative effect on the mindset of our staff. Notably, the dramatic proposed increase (more than 100%) in the salary threshold far surpasses the rate of inflation since 2004 (when the current threshold was established). If tied to increases in the cost of living since 2004, the maximum increase in the salary threshold would be well below 30%.

The Salvation Army is also concerned with the suggestion in the Proposed Regulations that the minimum salary threshold for the exemption automatically increase on an annual basis. Particularly because eligibility for benefits and payroll reporting is impacted by the classification of employees as "exempt" or "non-exempt," the proposal to adjust the salary threshold annually would necessarily increase the budgeting, accounting and compliance burden for our local units each year.

Again, while The Salvation Army is supportive of the purposes of the FLSA, particularly for the working poor in this country, we respectfully urge the Wage and Hour Division to reconsider the Proposed Regulations in light of the concerns outlined above.

Sincerely yours,

David E. Jeffrey
National Commander