

## Labor and Employment

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## AALRR Alert



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## California Employers Should Start Planning for Upcoming Minimum Wage and Minimum Salary Increases

Earlier this year, Governor Jerry Brown signed into law [Senate Bill 3](#), raising California's minimum wage to \$15.00 per hour by 2022 ("SB 3"). Increases to the minimum wage begin January 1, 2017, when the minimum wage will rise to \$10.50 per hour with increases scheduled through 2022.

For any employer who employs 26 or more employees, the minimum wage will increase as follows:

Effective Date	Non-Exempt Employees
Jan. 1, 2017	\$10.50
Jan. 1, 2018	\$11.00
Jan. 1, 2019	\$12.00
Jan. 1, 2020	\$13.00
Jan. 1, 2021	\$14.00
Jan. 1, 2022	\$15.00

Employers with 25 or fewer employees will receive a one-year delay on each of the increases.

### Employee Headcount Calculation

A frequently asked question is how the employee headcount is calculated. The law states, "Employees who are treated as employed by a single qualified taxpayer under

subdivision (h) of Section 23626 of the Revenue and Taxation Code ... shall be considered employees of that taxpayer for purposes of this subdivision." (California Labor Code section 245.5.) California Revenue and Taxation Code section 23626(h) defines a single qualified taxpayer as either: (1) trades or businesses treated as related under Internal Revenue Code sections 267, 318, or 707; or (2) all entities that are members of the same controlled group of entities as defined by Internal Revenue Code section 1563(a). (California Revenue & Taxation Code section 23626(h).) Therefore, a group of small businesses under common ownership may exceed the 26 or more employee threshold where the specified IRS rules are triggered. If you own or are affiliated with companies with common ownership or control and are close to the 26-employee threshold, a detailed analysis of the IRS rules may be required to determine headcount.

### California Salary Basis Also Affected by Minimum Wage Increase

The minimum salary requirement for exempt employees under California law is also tied to the minimum

wage. The law requires employers to pay exempt employees a salary equivalent of at least two times the state minimum wage (employees must also satisfy specified duties tests to qualify as exempt). The current minimum salary requirement for exempt employees in California is \$41,600.

With the State minimum wage increase, the minimum salary for exempt employees will be as follows:

Effective Date	Exempt Employees
Jan. 1, 2017	\$43,680
Jan. 1, 2018	\$45,760
Jan. 1, 2019	\$49,920
Jan. 1, 2020	\$54,080
Jan. 1, 2021	\$58,240
Jan. 1, 2022	\$62,400

California employers must keep in mind that the minimum compensation

--> "California employers must keep in mind that the minimum compensation under the federal salary basis test is scheduled to increase to \$47,476 on December 1, 2016."

under the federal salary basis test is scheduled to increase to \$47,476 on December 1, 2016. Therefore, California employers must pay at least the federal salary basis for exempt employees until the state level exceeds the federal level. California minimum salary levels will not exceed the federal minimum salary levels until January 1, 2019.

### California Local Minimum Wage Increases

In addition to State minimum wage increases, California employers must consider local minimum wage increases. Several cities and counties across California have enacted their own minimum wage ordinances. Employers must pay their workers not only the State minimum wage, but also any applicable city or county minimum wage for all work performed within the geographic boundary of the city or county.

The following chart summarizes local jurisdictions with minimum wage ordinances. It includes the minimum wages currently in effect in those jurisdictions as well as upcoming increases:

City/County	Current Min. Wage	Next Increase
Berkeley	\$11.00	10/1/16 - \$12.53
El Cerrito	\$11.60	1/1/17 - \$12.25
Emeryville	\$13.00 (55 employees or less)	7/1/17 - \$14.00
Emeryville	\$14.82 (56 + employees)	7/1/17 – Amount TBA
Long Beach	Same as state	1/1/18 - \$12.00 **
Los Angeles City	\$10.50 **	7/1/17 - \$12.00 **
Los Angeles County *	\$10.50 **	7/1/17 - \$12.00 **
Malibu	\$10.50 **	7/1/17 - \$12.00 **
Mountain View	\$11.00	1/1/17 - \$13.00
Oakland	\$12.55	None Scheduled
Palo Alto	\$11.00	1/1/17 – Amount TBA
Pasadena	\$10.50 **	7/1/17 - \$12.00 **
Richmond	\$11.52	1/1/17 - \$12.30
Sacramento	Same as state	1/1/18 - \$11.00 ***
San Diego	\$10.50	1/1/17 - \$11.50
San Francisco	\$13.00	7/1/17 - \$14.00
San Jose	\$10.30	None Scheduled
Santa Clara	\$11.00	1/1/17 – Amount TBA
Santa Monica	\$10.50 **	7/1/17 - \$12.00 **
Sunnyvale	\$11.00	1/1/17 - \$13.00

\* Unincorporated areas only. Click [here](#) for more information.

\*\* Employers with 25 or fewer employees will get a one-year delay

\*\*\* Employers with 100 or fewer employees will get a one-year delay

Employers with questions regarding the minimum wage increases or salary basis increases can contact the authors or their usual employment law counsel.

\*The authors thank summer law clerk Devin S. Lindsay, who assisted in preparing this Alert. Ms. Lindsay will enter her second year of law school at Washington University in St. Louis this fall.