**Archbright™**

**Insights Newsletter**

**December 2015**

Dear Members,

It has been a privilege to serve as President and CEO of Archbright for the past 10 years.

With excitement for Archbright’s future as well as my own, today I am announcing I will retire in December of 2016. This will cap a nearly 30 year career with this organization that included the roles of CFO and Executive Vice President prior to becoming CEO in 2005.

My time here has been rewarding and challenging. I have been honored to lead a talented team who are fiercely committed to helping our members elevate workplace performance. I am enormously proud of the work we’ve done together.

On behalf of our Board of Directors, I am very pleased to announce that Shannon Kavanaugh has been chosen to serve as the next Chief Executive Officer.

Prior to joining Archbright as Vice President, Marketing & Sales, Shannon founded Go-To-Market Strategies, a national sales and marketing resource center, and has been an executive leader in both product and service organizations for over 25 years. With a depth of experience at both tactical and strategic levels, Shannon has the vision, business acumen, and dogged commitment to Archbright’s members’ workplace performance success to lead the organization toward an exciting future.

Shannon will step into her new role as of January 1, 2016. To support Shannon in her transition to CEO, I will serve as Archbright’s Senior Advisor throughout 2016.

Please join me in congratulating Shannon on becoming the Chief Executive Officer of Archbright. You can reach her at skavanaugh@archbright.com.

Regards,

Craig Nelson, President and CEO

cnelson@archbright.com

**Preparing for the New FLSA Rules on “White Collar Exemptions”**

In July 2015, the U.S. Department of Labor (DOL) proposed raising the salary threshold for exempt employees from

$455 per week ($23,660 per year) to $970 per week ($50,440 per year). It also proposed that the rate, which has been the same since 2004, will rise each year based on the Consumer Price Index (CPI). At the moment, the DOL is sorting through more than 260,000 comments from stakeholders on the proposed rules. It will be interesting to see if these comments have any effect on the final rules which are anticipated to be released in July 2016.

Employers who have exempt employees earning LESS than $50,440 are faced with three hard decisions before the implementation of the rule.

1. Raise exempt salaries to a minimum of $50,440 per year.
2. Convert positions to an hourly status and pay overtime after 40 hours worked per workweek.
3. Adopt a cost neutral approach by lowering the hourly rate so the hourly rate plus the overtime pay are equivalent to current salary.

No option is ideal. They bring either increased costs or plummeting morale. To assist in determining the cost of compliance using these three variables, check out a handy calculator by ComplianceHR at: https://architectsapps. compliancehr.com/a/overtimeexemptionestimator. For instance, if you have an exempt employee working an average of 45 hours per workweek (5 weekly overtime hours) for 50 weeks per year, and earning a salary of $43,000 per year, the numbers will show:

1. It will cost an additional $7,440 to meet the new threshold.
2. If converting to an hourly rate, it will cost an additional $7,752.40 in overtime pay.
3. If adopting a cost neutral approach, the hourly wage will be reduced to $17.52 per hour.

For further information on this topic, see our KeyNote entitled Overtime Exemptions – 2016 Proposed Rule Changes under FLSA on the Member Only website.

2016 is fast approaching. Don’t wait too long to decide!

**Source:** Archbright

**Text Messages and the Workplace: “Bring Your Own Device” or “Bring Your Own Doubts?”**

Employer policies regarding email use, storage, and inspection are now routine. For various reasons, employers may require email records for investigations, discipline, or protection of proprietary information. With an increasing number of businesses allowing personal devices for business communications, more and more workers are relying on text messages to connect with each other and customers. Text messages are very convenient for personal use and this is making them more appealing for business use.

However, text messages as a business communication method pose “employer control” challenges:

1. Unlike emails that are accessible on a server, text messages are a device to device communication or from one app to the Internet. Text messages must be extracted from the device.
2. Auto-delete protocol can be imposed on email records, but not on text messages.
3. Text messages go through the phone network. Email goes through the Internet.
4. Workers rarely have two phones, i.e., one for work and one for personal use. Employer access to a personal device is not a “given” without appropriate “Bring Your Own Device” (BYOD) policies.
5. Smartphones contain time and date stamped videos, photos, GPS data, calendars, Internet sites visits, and Wi Fi location information. All of this information could be used by or against an employer.
6. If a company is involved in litigation, required legal “holds” on Electronically Stored Information (ESI) may not reach required information on employee personal devices, such as text messages or voicemails; putting the company at risk of legal sanctions or lack of exculpatory evidence.

Employers should proactively address the use of text messages for business or work purposes. Solving the problem is beyond the scope of this article. However, a good start is to adopt a BYOD policy that permits the employer 1) access to personal employee phones, 2) the right to wipe aspects of the phone or the entire phone upon termination of employment, and 3) to preserve text messages in connection with litigation. Employees may balk at such a policy, but it is legal and should be a critical term of employment if an employer allows employees to use a personal phone for work to avoid carrying two phones. See Archbright’s Keynote on BYOD for more suggestions.

**Source:** Archbright

**Review Your Health Care Costs Now to Avoid 2018 Cadillac Tax**

Employers should start taking action now to reduce their health care costs, well before the implementation of the Cadillac excise tax on high-cost health plans, consulting firm Deloitte has urged in a recently-published Health Policy Brief. Many employers have not taken significant steps to reduce costs in anticipation of the 2018 tax, Deloitte says, pointing out that it could take several years for the impact of such initiatives to be realized.

The Cadillac tax on high-cost health plans is a provision of sections 9001 and 10901 of the Patient Protection and Affordable Care Act (ACA) whereby the value of certain health benefits above threshold amounts of $10,200 (for individual coverage) and $27,500 (for family coverage) will be assessed a 40 percent tax on amounts above the caps. The tax applies to all employer-sponsored health coverage, including retiree health insurance coverage and employer-sponsored group health coverage purchased on private exchanges or through the Small Business Health Options Program (SHOP) exchanges, and it generally applies to health savings accounts (HSAs) and health flexible spending accounts (health FSAs). The tax is calculated based on both employer and employee premium contributions.

Deloitte surveyed 700 employers in February and March 2015 and discovered that 63 percent of respondents had not yet calculated their exposure to the tax or modeled to determine the first year that the tax would apply to them. Sixty-eight percent of employers surveyed had not started to distance themselves from higher-cost packages by reducing the generosity of their health benefit offerings.

**Finance industry is most concerned, least prepared.** Despite employers’ failure to start preparations, 92 percent expect that the Cadillac tax will adversely impact their companies and employees in a financial sense. Finance industry respondents, in particular, were especially concerned that the tax will adversely affect their ability to continue offering their employees valuable health benefits, with 66 percent expressing this concern.

And, despite concerns about the Cadillac tax’s adverse effects, Deloitte found that it was the finance industry, along with the services industry, that was most likely to say that they had not yet calculated their exposure to the Cadillac tax across their benefit offerings. They were also the most likely to say that they had not tried to determine their potential liability or modeled what year they would incur the tax. Manufacturers were the most likely to have calculated their exposure or tried to determine their potential liability, and retailers were the most likely to have modeled what year they would incur the tax.

**Take action soon.** Deloitte advised employers to assess in the near future how the Cadillac tax might affect their benefit offerings, and to determine if they are prepared to calculate the value of their employee health benefits and to apportion any tax liability among their benefit providers. Deloitte points out that the impact of any initiatives that employers would implement might take several years to determine, and action now would allow them to be positioned to reduce health care costs before the tax takes effect.

**Source:** CCH

**New Paid Leave Ordinance for Tacoma Employers Starts Soon**

The Tacoma Paid Leave ordinance goes into effect on February 1, 2016. At that time, all employees who work more than 80 hours in Tacoma in a calendar year accrue one hour of paid leave for every 40 hours worked in Tacoma, up to a total of 24 hours per year. Employees may take their accrued paid leave after 180 calendar days of employment. Up to 24 hours of accrued and unused leave may be carried over to the following calendar year. Employees may use hours carried over for a total of 40 hours per calendar year. This mandatory paid time is NOT in addition to any existing sick leave benefit. Employers may permit use of other paid leave (for example, vacation and personal days) to meet the paid leave requirements as long as employees enjoy the same or better provisions required by this ordinance.

Like the Seattle Ordinance, Paid Leave requirements apply to workers in collective bargaining units unless the requirements of the Ordinance are expressly and clearly waived in the collective bargaining agreement.

For more detailed information on this new law, see the KeyNote – Tacoma Paid Leave on Archbright’s Member Only website.

**ACA’s Automatic Enrollment Provision Repealed**

President Obama has signed into law a two-year budget agreement, the Bipartisan Budget Act of 2015, which includes a health care-related section that repeals the automatic enrollment requirement under the Patient Protection and Affordable Care Act (ACA).

Under ACA Sec. 1511, large employers with more than 200 full-time employees that offer job-based health insurance plans were required to automatically enroll their employees in a health insurance plan within three months of hiring. Employees would have had the right to decline coverage or select alternative policies, but in an opt-out manner rather than opt-in.

There was pushback from both sides of the political spectrum with concerns about the difficulty of implementation or monetary impact on low-wage employees. Repealing the automatic enrollment requirement is expected to save $7 billion.

**Source:** CCH

**Instructor Spotlight: Jan M. McLaughlin, CSP**

Jan McLaughlin has been a popular adjunct trainer at Archbright for years and, today, leads onsites at members’ organizations. Jan has earned the Certified Speaking Professional (CSP) designation—the speaking profession’s international measure of speaking experience and skill. Jan had been a teacher, retail manager, and actress in television commercials when she established her first business. Today she is the owner of Your Communication Connection. Jan practices yoga regularly so she doesn’t fall down while leading a workshop!

**Onsite Classes led by Jan include:**

* + Basic Selling Skills
	+ Communicating from Strength
	+ Creating Exceptional Customer Relations
	+ Dealing with Difficult Customers on the Phone
	+ Design It So They’ll Read It!
	+ Effective Emails that Get Results!
	+ Hold the Phone…It’s a Customer Calling!
	+ Influencing Others: Communicating with Purpose
	+ Meetings that Produce Results
	+ Take Your PowerPoints from Groan to Great!
	+ Writing that Gets Results

Content in these courses can be customized to meet your goals and needs. For more information, please contact your Account Executive.

**Bye Bye Boomers… or Wait, Is It Really Goodbye?**

With life expectancy increasing at an average of two years per decade and a large proportion of Baby Boomers (those born between 1946 – 1964) living longer and enjoying better health than previous generations, it’s no surprise that many of those 10,000 Baby Boomers who are turning 65 each day aren’t ready to pack it in quite yet. Feeling the pressure of low levels of savings that won’t support a long retirement, many older workers intend to keep working for as long as possible. Perhaps that at least partially explains why so few employers seem to be taking specific steps to mitigate the brain drain as people with deep knowledge and experience leave their workforces.

That said, employers who think strategically can benefit by considering two of the characteristics frequently cited as increasing engagement for Boomers as a place to start not only for talent retention, but for increasing the engagement levels for all employees:

* **Need for Flexibility.** While Boomers may exhibit a stronger tendency toward rule following and respect for organizational authority than younger generations, the interest in having more control over their time is as strong for them as it is for the younger folks who first cracked open the door to question the inflexible work schedule. With age comes deepening awareness that lifetime is brief, and Boomers may have an even more poignant sense of the importance of spending their time on what is most meaningful to them. The drive for work/life balance is compounded today by the fact that many employees are sandwiched between elderly parents who need their care and children or younger relatives who also need their care and attention. All of which make flex-time, part-time, consulting positions, and working remotely attractive to multiple generations in the workplace.
* **Knowledge Transfer is Natural and Technology is No Barrier When Mentoring is a Two-Way Street.** Your team members from the Boomer generation possess the hard won tribal knowledge borne of experience. Your younger team members possess seemingly effortless skill with information technology. Promoting inter-generational partnerships and mutual mentoring gives senior employees the opportunity to transfer their knowledge to younger colleagues and younger colleagues the opportunity to remedy the technology skills gap evident in many senior employees. Experience shows as well that diverse, intergenerational project teams enjoy not only multi-directional learning, but a reduction in workplace conflicts due to generational differences.

What’s to Be Gained? What are the possibilities in your workplace for increasing flexibility around time and schedules? What opportunities are there for knowledge sharing between co-workers? In answering these questions, you may be surprised to find how easy it is to increase engagement and retention for all generations in your workplace.

**Source:** Archbright

**2016 Wage Hikes for Seattle and Tacoma**

SEATTLE - Effective 1/1/16

Affects employees who perform more than 2 hours of work in a two-week period in Seattle.

|  |  |
| --- | --- |
| Large Employers | Minimum Wage |
| More than 500 employees in U.S. | $13.00 per hour |
| More than 500 employees in U.S. and pays medical benefits | $12.50 per hour |
| Small Employers | Minimum Compensation / Minimum Wage |
| 500 or fewer employees in U.S. | $12.00 per hour / $10.50 per hour\* |
| \*Lesser wage may be paid if employee receives wages, tips and medical benefits equal to minimum compensation rate of $12.00 per hour. |

TACOMA - Effective 2/1/16

Affects employees who perform work for 80 or more hours a year in Tacoma.

|  |  |
| --- | --- |
| All Employers | Minimum Wage |
|  | $10.35 per hour |

**Source:** Archbright

Emergency Preparedness

A rupture of the Cascadia Subduction Zone fault line that runs from Vancouver, B.C., to Northern California will strike our state with catastrophic results. Five minutes of shaking from the potential 9.0 magnitude quake, coupled with an anticipated destructive tsunami wave, will break apart highways, drop bridges, liquefy airfields, and render port facilities and rail inoperable. Both power and communication across Western Washington will be knocked out, posing significant challenges to search and rescue, evacuation, relief operations, and recovery efforts. This is according to the Washington Military Department. Do you know what to do? Is your business built to withstand a disaster? Are you ready?

As you may have read recently in the news, Washington State is located geographically in an area known as the Pacific Ring of Fire, which is a distinctive zone marked by the prevalence of earthquake and volcanic activity. A significant number of active fault lines or cracks in the crust have been identified in the Puget Sound area. Earthquakes occur nearly every day in Washington. Most are too small to be felt or cause damage.

Since 1870 there have been about 15 large earthquakes (greater than an M5) in the state. The most recent earthquake most residents will remember was the Nisqually earthquake that occurred February 28, 2001. This earthquake registered as a M6.8 where 400 people were injured and billions of dollars in damages were accrued. Scientists have used stories from the Pacific tribes, as well as land changes, to determine that there were catastrophic earthquakes of an estimated M9.0 in

AD 1700 and in AD 900-950 that caused parts of Restoration Point near Bainbridge Island to be lifted 35 feet straight up. This movement caused a tsunami in the Puget Sound and triggered a large landslide into Lake Washington.

According to Washington State’s Department of Natural Resources, the largest active fault that will affect the Pacific Northwest is the Cascadia subduction zone. An M9 earthquake is inevitable on this fault, but no one knows when it will happen. Earthquakes are estimated to reoccur on this fault between 200-600 years. With the last subduction zone quake occurring in AD 1700, many experts are saying that a catastrophic earthquake can happen any day.

What can you do?

* Make a Plan - Does your family know what to do and how to communicate to each other during an emergency?
* Build a Kit - What basic supplies do you and your family need for survival, peace of mind, and comfort for 7-10 days?
* Identify - What in your home or business could cause damage?
* Help Others - Take a CPR class and talk to neighboring businesses or homes to understand how to better work together after a disaster.

For questions or more information regarding Emergency Preparedness in your workplace, please contact your Safety & Loss Control Consultant at (206) 329-1120.

Monthly Safety Webinar
DECEMBER 2015
Emergency Preparedness

Thursday, December 17th 2:15 p.m.

Is your company prepared for emergencies? Would workers know how to respond in an emergency? How would you provide basic services in the immediate aftermath of a disaster?

Join our staff for details on the preparedness plans you need in place to mitigate a disaster, speed up the recovery process, and assure your employees’ safety.

Topics include:

* Emergency vs. Disaster
* Establishing a Team
* Creating an Emergency Action Plan (EAP)
* Vulnerability Assessment
* Emergency Response
* Training and Documentation

This monthly webinar is complimentary for all members of our Workers’ Compensation and Retrospective Rating Programs. Attendees will receive an email approximately one week before the webinar with participation and login information.

For those not enrolled in our Workers’ Compensation or Retrospective Rating Programs, there is a $49.95 fee. Please contact learning@ archbright.com for registration information.

“Safety might not always be common, but it always makes sense.”

Did You Know?

Doorways are no stronger than any other part of a structure so don’t rely on them for protection! During an earthquake, get under a sturdy piece of furniture and hold on. It will help shelter you from falling objects that could injure you during an earthquake.

**Please Notify Us of Staff Changes.** Please take a moment to contact us to correct any staffing changes for your organization, including email addresses. Email us at info@archbright.com.

Insights is published monthly for its member companies by Archbright™, founded in 1936. Items in Insights are for information only and not intended to render legal advice. Material contained herein may not be reprinted without the permission of Archbright.

We welcome your comments and suggestions.

Email: editor@archbright.com | Seattle Office: P.O. Box 12068; Seattle, WA 98102

Phone: 206.329.1120 | Web: www.archbright.com