

## **ALERT:** Push to Expand Overtime Pay

On March 13, 2014, President Obama directed the U.S. Department of Labor to revamp its regulations to require overtime pay for millions of fast-food managers, loan officers, computer technicians, and others now classified by many businesses as “executive or professional” employees exempt from the overtime requirements of the Fair Labor Standards Act. The proposed new regulations, subject to public comment, will increase the number of people who qualify for overtime pay. Now employers are prohibited from denying time-and-a-half overtime pay to any salaried worker who makes less than \$455 per week. The President’s directive would significantly increase that amount. In addition, there would be changes to the rules that define which workers are exempt from receiving overtime pay based on the kind of work performed. The precise terms and effective date of the final regulations are to be determined.

## **ALERT:** “Ban the Box” Law Now in Effect

During the 2013 legislative session, the Minnesota Legislature enacted Minn. Stat. § 364.021, prohibiting private employers from inquiring about the arrest or conviction record of job candidates when they apply for jobs. The new law outlaws job application forms that have a box to check to indicate that the applicant has never been arrested or convicted. It also prohibits verbal inquiries into an applicant’s criminal background at the outset of the hiring process. However, once a job applicant has been selected for an interview or, if there is no interview, once a conditional offer of employment has been made, these inquiries may be made and a criminal background check may be done. In addition, if, because of the nature of the job, an employer is required by law to exclude applicants who have been convicted of a crime, they can continue to do so. During 2014, the first year of enforcement, the commissioner will provide a written warning to employers in violation before any fines are levied. Thereafter, the penalty is up to \$500 for each violation (e.g., each non-compliant application form). Employers who use “off the shelf” application forms should examine the forms to ensure that they do not run afoul of the new law.

## **ALERT:** Minnesota Gift/Estate Tax

Less than one year after the Minnesota gift tax was adopted, the Minnesota Legislature has repealed the contentious Minnesota gift tax law retroactive for taxable gifts made after June 30, 2013. Governor Dayton signed the bill on March 21, 2014. This bill also increases the Minnesota estate tax exemption amount from \$1 million to \$1.2 million in 2014, \$1.4 million in 2015, \$1.6 million in 2016, \$1.8 million in 2017, and \$2 million in 2018. Notably absent from this bill is a repeal of the law that subjects real estate and tangible personal property located in Minnesota and held by a non-resident of Minnesota in a pass-through entity to Minnesota estate tax. Instead, the bill clarifies the law to exclude publicly-traded entities that own Minnesota real and personal property. Thus, Minnesota real estate held in a LLC that is owned by a non-resident will continue to be subject to Minnesota estate tax.

If you would like assistance in assuring best practices in these areas, please contact your attorney at Moss & Barnett.