

# HR Committee Update

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Members of the Society's Human Resources Committee have had the benefit of three recent CPE sessions on diverse and important topics in the human resources (HR) practice area: employee overtime, immigration and strategic planning.

## Update on Overtime Considerations

Joel J. Greenwald, managing partner of the law firm Greenwald Doherty LLP, addressed the HR Committee's questions related to overtime and exempt employees.

He reminded the committee that only exempt employees who meet statutory tests are not entitled to overtime. Employers should diligently review actual job duties and responsibilities, as well as minimum salary requirements mandated by federal and state law, to determine if a salaried employee meets exempt status.

Are all CPAs considered exempt? Again, Greenwald said it's essential to look at job duties rather than titles. The work of some junior accountants may be considered too routine to qualify them for an overtime exemption, he said.

Greenwald recommended that employers use the following action plan:

- Keep thorough time and pay records.
- Determine who is likely to be exempt from overtime pay based on the available exemptions outlined in employment laws.
- Draft compliant job descriptions.
- Review company or firm compensation structure.
- Revise policies and procedures to include certain "safe harbor" provisions that provide employers with a defense in case of pay errors.
- Train management for future compliance.
- When in doubt, talk to a lawyer.

## Update on Immigration Issues

Marcia N. Needleman, an immigration attorney from Levitt & Needleman PC, offered committee members a look at the alphabet soup of immigration visas.

Needleman highlighted several nonimmigrant visa programs commonly used by U.S. businesses today and discussed the application processes of each:

**H Visas:** The H-1B visa program is used by some U.S. employers to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field, and a bachelor's degree

or its equivalent. The term "specialty occupation" equates to that of "professional," Needleman said. To qualify for H-1B status, the applicant must have professional-level credentials, and the position must require such. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. The current annual cap on the H-1B category is \$65,000. The H-1B Visa Reform Act of 2004 made available 20,000 additional H-1B visas for foreign workers with a master's or higher level degree from a U.S. academic institution, but these petitions cannot be filed more than six months in advance of the requested start date.

**F Visas:** Undergraduate and graduate students with F-1 status who have completed or have been pursuing their degrees for more than nine months are permitted by U.S. Citizenship and Immigration Services (USCIS) to work for, at most, one year on a student visa, with optional practical training in order to acquire practical experience in their field of study. An interim order was passed on April 8, 2008, allowing students in STEM disciplines—science, technology, engineering and mathematics—to legally work under optional practical training for 29 months.

**L Visas:** Nonimmigrant intracompany transferee L-1 visas are available to employees of an international company with offices in both a home country and the United States, or those that intend to open an office in the United States while maintaining home country interests. The visa allows foreign workers to relocate to the corporation's U.S. office after having worked abroad for the company for at least one year prior to being granted L-1 status.

A qualifying relationship must exist between the companies, as parent, subsidiary, branch or affiliates. Spouses of L-1 visa holders are allowed to work in the United States after applying for and receiving authorization by the USCIS, and their children can attend school. The L-1 visa enables the holder to have a temporary and a permanent intent at the same time, thereby allowing the holder to apply for lawful permanent residence while maintaining L-1 visa status.

The L-1 visa has two subcategories: L-1A, valid for up to seven years for executives and managers, and L-1B, for workers with specialized knowledge—valid for five years.

More information may be obtained through the USCIS Web site at [www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis).

## Strategic Planning for Human Resources

HR professionals can make a positive contribution to an organization's bottom line by developing a strategic plan, said Jason Boltax, founder and president of JHB Human Capital Management.

A strategic plan creates a structure that helps organizations realize their objectives. It should be visionary and flexible, yet foster a balance between an organization's capabilities and desires, and address performance gaps, Boltax said. It should also guide a company's decision making at all levels.

It's important to first examine strategic business goals and the internal and external factors critical to achieving them, Boltax said, as he proceeded to outline the steps to take in developing a strategic HR plan:

• **Analyze strategic resources and needs.** For each strategic objective in the organization's long-range plan, identify the business units and operations directly involved in carrying out different activities related to those objectives. For each critical business unit, employers should identify the resources available to meet strategic objectives and examine work processes and staff, internal/external relationships, finances, equipment and other resources.

• **Align HR strategies with business needs.** Employers should identify strategies to support employees and operations key to meeting strategic objectives in each critical business unit. This stage of HR strategy formulation requires greater input from the line supervisors overseeing key employees. It resembles an HR audit, but focuses, instead, on future needs, targeting key business units, positions and employees.

• **Set priorities.** Employers should look first at the available resources, and rank strategic business needs based on where HR interventions are most likely to improve outcomes. There should be a realistic assessment as to which strategies are unlikely to work without major changes in corporate culture, managerial style or employee mindset. In assessing feasibility, employers should consider bringing in outside resources to help implement strategic initiatives that could otherwise tax existing HR capabilities.

• **Create action plans.** The last step is to develop an action plan to carry out the strategic objectives. The action plan should outline objectives and their relevance to strategic business goals, as well as a methodology and timeline for initiating and concluding each phase.

Tools, such as a balanced scorecard, should be used to communicate, navigate and measure results. Boltax said that having a scorecard enables business units, teams and employees to adopt whatever behaviors and take whatever actions are necessary to achieve the stated goals.

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