Abe’s Reform of Japan’s White Collar Employment System?

May 30, 2014

On May 28, Japan’s Ministry of Health, Welfare and Labor of Japan (the “Ministry”) formally proposed to the Abe administration that a white collar exemption be introduced for “global class professionals.” Under current law, an employer must pay overtime to all employees except those in managerial positions. “Managerial” has been very narrowly interpreted by the Ministry and judicial precedents to include only employees whose sole responsibility is to supervise subordinates. Under the proposal, companies would be exempt from paying overtime to certain professional employees. Albeit a small change, this is a potential first step to reform the entire employment system.

Japan is known for its “lifetime employment system,” but in reality this is a recent phenomenon which began in the second half of the 20th century. Given the explosive economic growth in the 1950s and 1960s, companies were desperate to secure a stable and loyal workforce, which led them to introduce systems to encourage employees to stay longer. Following this movement, statutes and judicial precedents increased the levels of protection for “regular” employees, who were expected to work for the same employer for their whole career. Terminating regular employees was made extremely difficult, and overtime pay was secured for all employees.

However, as the economy slowed in 1990s, the lifetime employment system started to falter. While the supply of available jobs was limited, employment laws and judicial precedents prevented companies from replacing older, highly paid, and low performing workers with fresh ones. The younger generation suffered. The percentage of population employed...
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Introduction of the white collar exemption is a small but important step to liberalize, rationalize, and modernize the Japanese employment system, thereby vitalize the labor market and stimulate domestic consumption. The Ministry has historically been resistive, claiming that it is responsible to protect workers. The Ministry’s proposal on May 28, 2014 amends its stance. Businesses are advocating expansion of the scope of the white collar exemption. Labor unions remain strongly against this reform. How this proceeds will be at least a partial test of the “Abenomics” program. O’Melveny will continue to monitor developments and provide further updates for future developments.

Endnotes:

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[2] Click here
[3] Click here
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Abenomics: Abe's Reform of Japan's White Collar Employment System?

On May 28, Japan's Ministry of Health, Welfare and Labor of Japan (the "Ministry") formally proposed to the Abe administration that a white collar exemption be introduced for "global class professionals." Under current law, an employer must pay overtime to all employees except those in managerial positions. "Managerial" has been very narrowly interpreted by the Ministry and judicial precedents to include only employees whose sole responsibility is to supervise subordinates. Under the proposal, companies would be exempt from paying overtime to certain professional employees. The Ministry has historically been resistive, claiming that it is responsible to protect workers. The Ministry's proposal on May 28, 2014 amends its proposal from 2013.

The Japanese government has struggled to reform the current regime, which except the limited white collar exemption. Labor unions remain strongly against this reform. How this stance. Businesses are advocating expansion of the scope of the white collar exemption. The Ministry's proposal on May 28, 2014 amends its proposal from 2013.

The younger generation suffered. The percentage of population employed in 2013, up from 11.5% in 1993, while that for older male workers (45 to 54) remained lower than 10%. The average income of non-regular/part-time workers rose to 35.2% in 2012, up from 20.2% in 1990. The statistic for younger workers (15 to 24) has risen to 32.3% in 2013, up from 27.3% in 2001 to amend the Labor Standard Law to make termination easier, but failed. In 2007, the former Abe administration proposed a system to make termination easier, but failed. In July 2012, the Noda administration proposed to set the retirement age at 40, which meant that employment should be secured until age 40, thereby vitalize the labor market and stimulate domestic consumption. The Ministry's proposal on May 28, 2014 amends its proposal from 2013.

Abe's administration, again, is trying to reform the Japanese labor markets. Liberalization was one of the three cornerstones of the "Abenomics" program. The proceeds will be at least a partial test of the "Abenomics" program. Businessmen are advocating expansion of the scope of the white collar exemption. Labor unions remain strongly against this reform. How this stance. Businesses are advocating expansion of the scope of the white collar exemption. The Ministry's proposal on May 28, 2014 amends its proposal from 2013.

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