

DOL Announces Final Rule Increasing Minimum Salary Levels for FLSA Overtime Exemptions

BY TRACY THOMAS BOLAND AND BENJAMIN J. HINKS • APRIL 24, 2024

On April 23, 2024, the United States Department of Labor (DOL) released its highly anticipated final overtime rule, which increases the threshold salary levels for the "white collar" and "highly compensated employee" overtime exemptions under the Fair Labor Standards Act (FLSA).

The new rule, **which takes effect on July 1, 2024**, requires employees to receive a minimum weekly salary of $844 per week (or $43,888 annually) in order to be properly classified under the executive, administrative, or professional exemptions. Beginning on January 1, 2025, this amount will increase again to $1,128 per week (or $58,656 annually). Currently, the minimum salary level for these "white collar" exemptions is $684 per week (or $35,568 annually).

The rule also will increase the required amount of total annual compensation for the FLSA's "highly compensated employee" exemption. On July 1, 2024, the minimum annual compensation for this exemption will increase from $107,432 to $132,964 per year, and then on January 1, 2025, this minimum will increase again to $151,164 per year.

Importantly, the DOL noted its intention to increase these salary thresholds every three years to reflect updated wage data, beginning on July 1, 2027.

OVERTIME OBLIGATIONS UNDER THE FLSA

As a reminder, the FLSA requires employers to pay employees overtime (1.5x pay) when they work more than 40 hours in a week, unless the employee meets the criteria for one of the FLSA's exemptions. Exempt employees include those who meet the requirements of one of the administrative, professional, and executive exemptions, often referred to as "white collar" employees. Exemption generally requires that each of the following three tests must be met: (1) the employee must be paid a predetermined and fixed salary (the salary basis test); (2) the amount of salary paid must meet a minimum specified amount (the salary level test); and (3) the employee's job duties must primarily involve executive, administrative, or professional duties as defined by federal regulations (the duties test). Each of the duties

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tests has its own factors that must be satisfied to qualify for exemption (employees who meet the "highly compensated employee" salary test enjoy a lighter lift on the duties test).

WHAT DOES THE NEW RULE MEAN FOR EMPLOYERS?

While the rule will come under scrutiny by some lawmakers and will certainly face legal challenges in various courts, employers cannot bank on it being overturned. Employers must begin preparing for the final rule to take effect on July 1, 2024, and for the even greater changes that will occur come January 2025.

To begin, employers should review employee salaries in conjunction with their classification policies to determine which employees will be impacted by the overtime rule change, and what actions will be necessary to maintain compliance. Indeed, this rule change will impact millions of employees across the nation. Many employers will need to make decisions regarding employees implicated by the rule—chiefly, to increase salaries or reclassify them as non-exempt.

Finally, employers may want to take this opportunity to perform a more wholistic audit of their current exempt classifications, including revisiting job duties to ensure that employees are properly classified.

If you have questions about this alert or any other employment-related matter, please contact your Bowditch employment attorney.

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