



## ***Federal Court Strikes Down 2024 Salary Level Rules***

DOUGLAS E. WITTE, BRIAN P. GOODMAN | 11.18.24

The Fair Labor Standards Act (FLSA) generally requires an employer to pay an employee overtime (time-and-a-half) if the employee works more than 40 hours in a workweek. But the law exempts some employees from that requirement, notably, certain executive, administrative, and professional workers under the white-collar exemption. To qualify for the white-collar exemption, an employee must generally satisfy a three-prong test: the employee must be paid on a salary basis, *i.e.*, be paid a fixed and predetermined sum each week irrespective of the quantity or quality of the work performed (the “salary basis” test); the employee’s primary work must be the performance of exempt duties (the “duties test”); and the employee must earn a minimum salary (the “salary level test”).

In April 2024, the Department of Labor issued rules (“2024 Rules”) that increased the salary level that had to be paid to executive, administrative, or professional employees so that the employees were not entitled to overtime pay under the FLSA. The 2024 Rules did not change the primary duties tests, nor did they change the salary basis test. On Friday, November 15, 2024, a federal court in Texas struck down the entirety of the 2024 Rules and ruled his decision applied nationwide.

The first salary level increase under the 2024 Rules took effect on July 1, 2024. The second increase was scheduled to take effect on January 1, 2025, with further increases scheduled for every three years after that. Now that the 2024 Rules have been struck down, employers no longer need to comply with those salary levels. While an appeal to the Fifth Circuit Court of Appeals is possible, any appeal is unlikely to take effect before President Trump takes office in January, and the Trump Administration is unlikely to defend the 2024 Rules in court.

The 2024 Rules being struck down means that, effective immediately, only the salary level from 2020 must be met for positions that are exempt from overtime pay under

the executive, administrative, and professional exemptions. These employees need to be paid a minimum of \$684 per week (\$35,568 per year) to meet the salary level test. As a reminder, certain employees such as teachers, are not subject to either the salary level or salary basis tests established by the FLSA.

The 2024 Rules also increased the salary level for the highly compensated employees (HCE) exemption. This exemption isn't recognized in Wisconsin but might be used by employers in other jurisdictions. With the 2024 Rules being struck down, the HCE salary level reverts back down to \$107,432 annually.

Employees who made changes to their practices based on the July 1, 2024 salary level or who have made changes in anticipation of the January 1, 2025 salary level, can reevaluate those changes. Reducing salary increases already given might be impractical, but employers who converted salaried-exempt employees to hourly non-exempt employees might want to consider whether to reclassify those positions as salary-exempt once again. Employers should be certain employees meet all three prongs of the exempt test.

Please reach out to your Boardman Clark attorney if you have questions about wage and hour compliance, including the consequences of this court action.

Disclaimer: This information is not intended to be legal advice. Rather, it seeks to make recipients aware of certain legal developments that affect human resource issues. Recipients who want legal advice concerning a particular matter should consult with an attorney who is given a full understanding of the relevant facts pertaining to the particular matter.

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