



DOL Issues Final Overtime Rule

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On April 23, 2024, the U.S. Department of Labor issued a final rule which impacts who is eligible for overtime pay. Under the Fair Labor Standards Act (FLSA), employees generally must be paid overtime at 1.5 times their regular rate of pay for hours worked over 40 in a defined workweek.

EXEMPTIONS FROM THE OVERTIME RULE

There are several exemptions from the overtime rule. With regard to the most common exemptions (the executive, administrative, and professional exemptions), employees must be paid a minimum amount of money, known as the salary level in order to be exempt from overtime. This requirement is in addition to the requirement that these employees be paid on a “salary basis” and meet certain tests based on their job duties.

Currently, employees must be paid a minimum of \$684 per week (\$35,568 per year) to meet the salary level for exempt status. As with past iterations of this rule, there have been legal challenges to this new rule. A court might stop the rule from taking effect for some or all employers. In 2016, a federal court stopped an increase in the salary level from taking effect. However, a 2020 increase in the salary level did take effect. Therefore, employers should track the status of the new rule, and prepare to adjust their plans depending on whether or not the final rules take effect.

MINIMUM SALARY LEVEL INCREASE

Under the new rule, effective July 1, 2024, the minimum salary level would be increased to \$844 per week (\$43,888 annually). Effective January 1, 2025, the

minimum salary level would increase to \$1,126 per week (\$58,552 annually). Employers are still permitted to satisfy up to 10% of the salary level using nondiscretionary bonuses and incentive payments (including commissions) paid annually or more frequently. The new rule also does not change the “salary basis” or duties tests required for employees to qualify for exempt status.

The final rule also increases the salary level and the total annual compensation requirement for highly compensated employees (HCE) in order to qualify as exempt from overtime. On July 1, 2024, the HCE total annual compensation level must equal at least \$132,964. On January 1, 2025, the HCE total annual compensation level must equal at least \$151,164. Note that Wisconsin does not recognize the exemption for highly compensated employees, and thus employers cannot rely on that exemption from overtime requirements for Wisconsin employees. Additionally, certain employees such as teachers, are not subject to the salary level or “salary basis” tests established by the FLSA.

The final rule also adopts a mechanism to update the earnings thresholds every three years. Please reach out to Boardman Clark’s [Labor and Employment Practice Group](#) if you have questions.

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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