

Guidance for Employers Ahead of Looming Department of Labor Increases in Exempt Employee Thresholds

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What You Need to Know

- The U.S. Department of Labor has announced a final rule on overtime pay that significantly increases the minimum annual salary “white collar” employees must earn to qualify for administrative, executive, and professional exemptions under the FLSA.
- The DOL has also increased the minimum total annual compensation threshold for “highly compensated employees” in order to qualify for exemption under the FLSA.
- Legal challenges to the final rule are very likely. Still, employers should be proactive about preparing for the two-step implementation of the rule, with initial increases becoming effective on July 1, 2024, and more significant increases scheduled for January 1, 2025.

On April 23, 2024, the U.S. Department of Labor (DOL) announced its final rule updating and revising regulations issued under the Fair Labor Standards Act (FLSA) implementing exemptions from minimum wage and overtime pay requirements for executive, administrative, professional, outside sales, and computer employees.

What’s Changing, and When

The final rule provides for two-step increases to both the standard salary level and the “highly compensated employee” (HCE) total annual compensation threshold for exempt employees. The initial increases become effective July 1, 2024, with a second round of more significant increases scheduled for six months later, on January 1, 2025, as shown in this table:

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Effective Date

Standard Salary Level

HCE Total Annual Compensation Threshold

Before July 1, 2024

\$684 per week (equivalent to \$35,568 per year)

\$107,432 per year, including at least \$684 per week paid on salary or fee basis.

July 1, 2024

\$844 per week (equivalent to \$43,888 per year)

\$132,964 per year, including at least \$844 per week paid on a salary or fee basis.

January 1, 2025

\$1,128 per week (equivalent to \$58,656 per year)

\$151,164 per year, including at least \$1,128 per week paid on a salary or fee basis.

The final rule provides that the adequacy of these thresholds be revisited every three years to reflect current earnings data. Additionally, exempt employees will still have to satisfy the duties requirements of the administrative, executive or professional employee test.

Key Impacts

The implementation of the final rule will very likely be delayed by legal challenges. However, if the final rule reaches implementation in its current form, the threshold increases are expected to sweep significant numbers of employees into the hourly worker category, which in turn will have a profound impact on employers' labor costs. To comply, impacted employers will have to either increase the salaries of those employees or reclassify them as hourly employees.

It is possible that in some instances, especially for workers who routinely work 40 hours or less, reclassifying them as hourly employees may be economically prudent. In those instances, employees must be notified of such reclassification and must be advised of a record-keeping system that would ensure the proper tracking of their hours and payment of any overtime.

Next Steps for Employers

In anticipation of the looming July 1 deadline, employers should conduct a careful audit of all employees whose annual compensation falls below the new thresholds and should concurrently review the compensation levels and specific job duties of their existing exempt workforce. Assessing the number of employees affected, as well as the differential between their current compensation and future threshold at

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each of the increase points, will allow for a calculation of the economic impact of the new rule on the employer's business operations.

Depending on the magnitude of the impact and the nature of the industry in question, adjustments in the workforce may be necessary to meet the new economic reality. Employers who will be impacted by the new exempt employee thresholds may wish to consult with employment counsel to discuss plans for training and issuing communications to any impacted employees.

We will provide timely updates on the implementation of the DOL's final rule and related legal challenges. Please contact the author of this Alert with questions or to discuss your specific business circumstances.

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