

New DOL Rule: Changes to Salary Thresholds for Overtime Exemptions

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On Tuesday, the U.S. Department of Labor (DOL) released a final rule, “Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees,” which significantly raises the salary thresholds for exemption from overtime pay for bona fide executive, administrative, and professional employees.

Key changes include:

- 1. Salary Thresholds:** The rule raises the threshold for these three categories of employees to \$43,888 per year, starting July 1, and then to \$58,656 per year as of January 1, 2025. This is a significant increase from the current rate of \$35,568 a year. The DOL anticipates this change will impact 3 million workers.
- 2. Highly Compensated Employees:** The overtime salary threshold for highly compensated employees will rise to \$132,964 in July and \$151,164 in January, up from the current rate of \$107,432.
- 3. Automatic Updates:** The rule introduces automatic updates every three years based on the latest earnings data.

As a reminder, in addition to meeting the salary threshold, employees’ job duties must meet one of the duties tests for exemption as an executive, administrative, or professional employee. The new rule raises the salary threshold but does not modify any of these duties’ tests.

The DOL attempted to raise the salary threshold for exempt status under former presidents Barack Obama and Donald Trump. Both of these efforts faced court challenges. The Obama-era rule was enjoined by a Texas federal court in 2017. The challenge to the Trump-era rule is ongoing in the Fifth Circuit. It is likely this latest rule also will face court challenges.

In the meantime, it is crucial for employers to review their current practices and prepare for these changes.

Here are five considerations for employers ahead of the effective date:

- 1. Review Exempt/Nonexempt Practices:** This is a good time for employers to review their exempt positions for compliance with all criteria, not just the salary threshold. Further, it is crucial that human resources employees

and other decision-makers are trained on and aware of the new salary threshold when making decisions about exempt status of employees.

2. **Assess Close Cases:** Employers should review employees earning between \$35,568 and \$58,656 a year, and between \$107,432 and \$151,164 a year and decide whether to raise their salary to meet the new threshold or convert the employee to nonexempt status.
3. **Communicate:** Employers should provide written communication ahead of time to each employee about the specific changes to their compensation and/or new responsibilities.
4. **Review Applicable State Laws:** Employers should remember that other jurisdictions can have higher, stricter, or different wage and hour requirements.
5. **Stay Updated on Legal Challenges:** While we do expect legal challenges to the final rule, given the uncertain nature of litigation, employers should prepare as if the final rule will take effect as planned.

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