



# Labor & Employment Alert

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## PRACTICES

Employment & Labor

## DOL Raises Exempt-Status Salary Threshold

The minimum salary necessary to qualify an employee as "exempt" from overtime pay will rise to \$684 per week, under a Final Rule announced by the United States Department of Labor. The new salary threshold, an increase from the current \$455 per week minimum, will take effect January 1, 2020. The new threshold is the equivalent of a salary of \$35,568 on an annual basis.

The minimum salary needed for exempt status has not been changed since 2004. The Department of Labor during the Obama administration had proposed raising the threshold to \$913 per week (\$47,476 per year). That proposal, however, was blocked by a federal court in late 2016, before it could take effect.

The Department of Labor estimates this rule change will make 1.3 million more workers eligible for overtime pay. That is the estimate of the number of currently-exempt workers with a salary less than \$35,568 per year. Employers with exempt workers paid below the new threshold will need to modify payroll systems to reflect the overtime eligibility, raise the salary above the threshold, or adopt some other strategy to address the impact of the new Rule.

To qualify for exemption under the most generally applicable "white collar" exemptions, an employee must be paid at least the minimum salary and perform duties which are considered exempt. The Final Rule only raises the minimum salary - it does not make any changes to the "duties" portion of the test.

In addition to the minimum salary threshold, the Final Rule also raises the eligible salary for the "highly compensated employee" test from \$100,000 to \$107,432 per year. The Department of Labor also has stated its intent to revisit the salary threshold (and highly compensated employee standard) on a more frequent basis, although the Final Rule does not contain an automatic escalator provision.

As noted, the 2016 proposed increase resulted in litigation and was ultimately blocked. Thus, an employer may want to use the time between now and January 1 to determine the appropriate strategy for its organization, but wait to announce or implement any changes until closer to the effective date, in the event that similar litigation affects the implementation of this Final Rule.

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