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New Changes to Washington's Overtime Rules Beginning July 2020

The Washington State Department of Labor & Industries (L&I) recently announced significant revisions to Washington's overtime rules for the first time in 40 years. The new rules will go into effect beginning on July 1, 2020, and will be phased in through 2028. They increase the salary threshold and update the job duties tests that are used to determine whether an employee is required to be paid overtime.

Washington State's New Overtime Rules

The new rules announced by L&I will result in tens of thousands of workers becoming entitled to overtime compensation by greatly increasing the minimum salary threshold required for exempt status. Specifically, the new rules use a formula based on Washington's minimum wage to determine the minimum salary that a worker must receive to be exempt from the state's overtime requirements. The changes will begin on July 1, 2020, and will be fully implemented by January 2028. The new rules will eventually expand overtime entitlement to an estimated 259,000 workers when fully implemented in 2028.

To be exempt from overtime, an employee generally must be paid a fixed salary, must perform certain defined job duties, and the salary must meet or exceed the salary threshold. Under current federal guidelines, the salary threshold is \$455 a week, while Washington state's salary threshold is only \$250 a week.

Salary Threshold

Beginning on July 1, 2020, Washington's minimum salary threshold will increase for all employers to \$675 a week (\$35,100 a year), currently 1.25 times Washington's minimum wage. The salary threshold will increase incrementally until January 2028, when it is expected to reach approximately \$1,603 a week (or about \$83,356 a year). After 2028, the minimum salary threshold will rise when Washington's minimum wage increases for inflation.

Job Duties Tests

In addition to increasing the salary threshold for workers, Washington's new overtime rules also update the job duties tests, which are used in conjunction with the salary threshold to determine whether an employee is exempt from being paid overtime. Specifically, Washington currently uses two job duties tests, which have been reduced to one test with language that more closely aligns with the federal job duties tests. The new tests determine whether a worker is performing executive, administrative, professional, computer professional, or outside salesperson duties which allow an employer to classify the worker as exempt from receiving overtime pay. As a general matter these changes are good for employers because they greatly reduce, although do not completely eliminate, the circumstances where an employee may be exempt under federal law but not exempt under Washington's law.

Federal Overtime Rules Begin January 1, 2020

In addition to Washington's rule change, the U.S. Department of Labor's (DOL) new overtime rules take effect January 1, 2020. The new DOL rules increase the federal minimum salary threshold to \$684 a week (\$35,568 a year). Because employers must meet the salary threshold that is the most favorable to employees when state and

federal thresholds conflict, most Washington employers must comply with the new federal overtime rule until Washington's own salary threshold exceeds the federal threshold.

Washington's salary threshold will exceed the federal threshold on Jan. 1, 2021. At that time, employers in Washington with 1-50 employees must pay workers at least 1.5 times the state's minimum wage, about \$827 a week (\$43,004 a year), for the worker to be exempt from overtime payments. For businesses with 51 or more employees, the salary threshold will be 1.75 times the minimum wage, about \$965 a week (\$50,180 a year). Washington's salary threshold continues to increase every year until 2028.

In addition to the new state overtime rules, Washington's minimum wage is rising on January 1, 2020, and will go from \$12 an hour to \$13.50 an hour.

Bottom Line for Employers

Employers in Washington have multiple options to comply with the rules. For example, they can convert current salaried exempt employees to salaried nonexempt or hourly nonexempt, and pay overtime for any work over 40 hours in a workweek. To reduce overtime costs, employers could also limit the number of hours of work to 40 hours per week or less. If an employer wishes to maintain an employee's exempt status, the employer needs to ensure that the worker meets the new duties test requirements and is paid at least the updated salary threshold requirements every year until 2028. Finally, employers should review their employee handbooks and employee classifications to ensure compliance with the new overtime rules.

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