Updates
April 25, 2024
US Department of Labor Increases Salary Threshold for Exempt Employees

The U.S. Department of Labor (DOL) issued a final rule on April 23, 2024, increasing the minimum salary and compensation thresholds for certain overtime exemptions (the Final Rule) under the Fair Labor Standards Act (FLSA).

The Final Rule has a stated effective date of July 1, 2024. The FLSA mandates that employers pay nonexempt employees one-and-a-half times their regular rate for hours worked beyond 40 in a week. However, the law exempts certain employees from receiving overtime.

Generally, an employee may qualify for an overtime exemption if they receive a fixed salary not subject to reduction based on the quality or quantity of work, earn at least a specified minimum amount, and primarily perform executive, administrative, or professional duties.

Starting July 1, 2024, the minimum salary threshold for qualifying for the executive, administrative, or professional exemption will increase from $684 per week ($35,568 per year) to $844 per week ($43,888 per year). On January 1, 2025, it will further increase to $1,128 per week ($58,656 per year). This threshold corresponds to the 35th percentile of the weekly salary for all full-time, nonhourly workers in the lowest earning region (the South).

Similarly, an employee may also qualify for an overtime exemption if they earn total annual compensation above a certain amount, primarily perform office or nonmanual work, and regularly engage in at least one of the exempt duties of an executive, administrative, or professional employee. This exemption is often known as the highly compensated employee test.

Under the new rule, starting July 1, 2024, the minimum total annual compensation for this exemption will rise from $107,432 to $132,964. On January 1, 2025, it will increase to $151,164, based on the 85th percentile of annual compensation for all nonhourly workers nationwide.

Going forward, the DOL will no longer use formal rulemaking to update these thresholds. Instead, the DOL will adjust the thresholds every three years using available U.S. Census Bureau salary and compensation data.

The Final Rule does not apply to employees in the U.S. territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands.

Next Steps and Takeaways

Past challenges in courts have delayed the implementation of similar rules. In 2016, a similar rule proposed by the Obama administration's DOL faced many legal challenges. Ultimately, the 2016 rule never went into effect after a new administration entered office. However, a 2019 final rule updating the salary threshold at a level lower than the proposed in 2016 was upheld by a federal district court and that matter is pending appeal. We expect the most recent rule to also trigger litigation as many commentators argued that the proposal was too expensive for businesses and that the FLSA did not support the authority to automatically raise the threshold. Employers should keep an eye on relevant upcoming litigation to see if the new rule withstands challenges. Nevertheless, employers may want to review their employee classification policies to ensure they can comply with the new requirements by its stated effective date.

Some states already set higher minimum compensation thresholds than those in the new DOL rule, so some exempt employees may already meet these new thresholds. Employers should ensure they comply with applicable state salary exemption thresholds. For employers in states without higher thresholds, it is crucial to review exempt employees' compensation and classification for compliance before the new rule takes effect. If an exempt employee's compensation falls below the new minimum threshold, they will lose their exempt status and become eligible for overtime.

Employers seeking to ensure compliance with the new DOL rule should consult with experienced labor and employment counsel.

Authors

Explore more in

Labor & Employment

Related insights

Update

Two Tools for Trump To Dismantle Biden-Era Rules: the Regulatory Freeze and the Congressional Review Act

Update

The FY 2025 National Defense Authorization Act: What’s New for Defense Contractors