



Department of Labor Releases New Overtime Rules

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The long anticipated DOL overtime rules have been issued. On May 18, 2016, the Department of Labor released the Final Rule governing the “white-collar exemptions” to the Fair Labor Standards Act’s (“FLSA”) overtime pay requirements. These long-awaited regulations will have substantial implications for most employers. The final rule is set to become effective on December 1, 2016.

The most important changes implemented by the new regulations are:

- The salary threshold for qualifying as exempt from the overtime regulations is now **\$47,476 per year** (i.e. **\$913 per week**). This is roughly double the original threshold of \$23,660 per year.
- The salary threshold for the “highly compensated employee” exemption is now **\$134,000**. This is a 34% increase from the original threshold of \$100,000.
- The salary thresholds will be automatically updated every three years, based on the 40th percentile of full-time salaries for workers in the lowest income region of the country. This indexing is expected to cause the salary threshold to increase to at least \$51,000 starting January 1, 2020.
- Non-discretionary bonuses and commissions can be used to satisfy up to 10 percent of the salary threshold, so long as they are paid at least quarterly.

The “Duties Tests” Remain The Same

Although the DOL considered altering the duties tests used to determine whether an employee qualifies for the recognized overtime exemptions (i.e. Executive, Administrative, Professional, Outside Sales and Computer Employees), the final regulations did not make any changes to those requirements.

Employers Should Audit How Employees Are Being Compensated to Ensure Compliance

Employers should be auditing their workforce to determine which positions may be affected by the new regulations.

For those positions that are currently exempt but would not meet the new salary thresholds, employers will be required either (1) to increase the salaries to maintain exempt status; or (2) to re-classify the position as non-exempt, implement time tracking systems, and ensure that the employees receive overtime pay for overtime hours. For the latter category, employers should consider how they may structure the compensation and control the hours worked in order to manage the potential overtime liability.

Stay Tuned for Details on Spencer Fane Webinar

Given the significance of the new regulations for employers, Spencer Fane will be hosting a free webinar to discuss the changes in more detail and to offer strategies for coming into compliance by December 1, 2016. Details on the webinar will be circulated shortly. In the meantime, if you have any questions about the new regulations and how they may affect your organization, we invite you to contact anyone in the Spencer Fane Labor & Employment group.

Update: Recorded Webinar – Get Ready for the New Rules on White-Collar Exemptions to Overtime Pay

A recording of the webinar is now available. You can find the recording by [following this link](#). Once the Recording Information page is open, click the “Playback” button.

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