

# CLINE WILLIAMS

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### **NEW FEDERAL SALARY THRESHOLD APPROVED BY U.S. DEPARTMENT OF LABOR**

On April 23, 2024, the U.S. Department of Labor (DOL) announced an increase to the Fair Labor Standards Act's (FLSA) salary-level threshold for the "white-collar" exemptions to overtime requirements. The DOL's final rule expands overtime pay protections to over 4 million workers by changing the FLSA's exemptions to overtime eligibility.

#### **The Current Standard**

Under the FLSA, covered employers must pay at least minimum wage to employees and overtime to those who work more than 40 hours per week. The FLSA exempts some employees from that requirement. Currently, to be exempt from overtime under the FLSA's executive, administrative, and professional exemptions, an employee must be paid a salary of at least \$684 per week and meet certain duties tests. If the employee is paid less than \$684 per week, is not paid on a salary basis, or does not meet the applicable duties test, the employee must be paid one and one-half times their regular hourly rate for hours worked in excess of 40 in a workweek.

#### **The DOL's Final Rule**

Under the DOL's final rule, the salary threshold for the FLSA's executive, administrative, and professional exemptions will increase in two phases:

- On **July 1, 2024**, the salary threshold will increase from \$684 per week (\$35,568 per year) to \$844 per week (\$43,888 per year).
- On **January 1, 2025**, the salary threshold will increase again, to \$1,128 per week (\$58,656 per year).

In addition, the DOL's final rule increases the total annual compensation requirement for highly compensated employees:

- On **July 1, 2024**, the annual compensation threshold will increase from \$107,432 per year to \$132,964 per year.
- On **January 1, 2025**, the annual compensation requirement will increase again to \$151,164 per year.

The DOL sets forth a schedule for automatic increases to the salary threshold every three years, after the initial update on July 1, 2024, to allow for predictable updates. The DOL has not released the updated rates for 2027, but it has indicated it will use methodologies in place at the time of the updates.

## **What Remains Unchanged**

As expected, the DOL's final rule did not amend the duties test under the FLSA. Regardless of the changes to the salary threshold, an employee still must meet both the duties and pay requirements of an exemption in order to be properly classified as exempt under the FLSA.

## **Impact of the DOL's Rule**

The DOL's final rule increases the minimum salary levels under the FLSA. For employees who earn *more* than the new minimum salary levels, the FLSA's new rule does not impact their status. Similarly, for those jurisdictions that have adopted higher minimum levels, employers will be required to continue to comply with the higher standard applicable to employees.

## **Effective Date of the Final Rule**

Because the final rule is considered a "major rule," it cannot take effect for 60 days. Accordingly, the DOL announced that the final rule will take effect on July 1, 2024. The rates scheduled to take effect on July 1, 2024, use the existing 2019 methodology. The rates scheduled to take effect January 1, 2025, use updated methodology. As such, the DOL's final rule gives employers additional time to adjust to the updated methodology:

"The delayed applicability date will allow employers 6 additional months beyond the proposed 60-day effective date in which to evaluate employees who will be affected by the new standard salary level methodology and the new [highly compensated employee] compensation level methodology and make any adjustments."

## **The Road Ahead**

The DOL's final rule is expected to face challenges in court. Those legal challenges may look similar to those raised in 2016, when a comparable rule was announced under the Obama Administration to increase the FLSA's salary threshold. The uncertainty of litigation puts employers in a difficult position in preparing to comply with the new rule.

Regardless of the potential for litigation, employers must consider what is necessary to comply with the new rule, should it take effect. Employers first should evaluate the nature of their current workforce, particularly their exempt employees. Salaries for employees currently classified as exempt may need to be increased to align with the final rule. Where salary increases are not feasible or practicable, employees may need to be reclassified as nonexempt. Reclassification decisions will need to be evaluated carefully to consider how best to communicate changes to impacted employees.

These types of decisions can be complicated and will depend on a variety of factors. Employers should work closely with counsel on changes that need to occur and to monitor legal developments related to the DOL's final rule.

For more information on the DOL's final rule, please reach out to Tara Stingley, Maddie Hasley, or another member of the Cline Williams' Labor and Employment Law Section at [www.clinewilliams.com](http://www.clinewilliams.com).

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