

DOL's Final Rule to Increase Salary Thresholds for Overtime Exemptions

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After much anticipation, the U.S. Department of Labor (DOL) unveiled its Final Rule on April 23, 2024, increasing the salary that an employee must earn in order to qualify for the executive, administrative, professional and highly compensated employee “white collar” exemptions under the Fair Labor Standards Act (FLSA). Although the Final Rule will almost certainly face legal challenges and could be struck down, employers should still take the opportunity to evaluate and audit their employee exemption classifications in the event the new rule takes hold in July.

Background

Under the FLSA and many state laws, an employee must be paid overtime for hours worked over 40 in a workweek, unless the employee specifically qualifies for one or more statutory overtime exemptions, including the FLSA’s executive, administrative and professional exemptions. To qualify for one of these exemptions, an employee must be paid a minimum salary amount and must perform certain statutory job duties. An employee currently can qualify for one of the three noted exemptions under the FLSA if the employee receives a salary of at least \$684 per week, or \$35,568 per year. An employee can also qualify for the highly compensated employee exemption if the employee receives a salary of at least \$107,432 per year.

The New Rule

The DOL’s Final Rule increases the minimum salary thresholds for all four above-referenced overtime exemptions. The increases will roll out in two phases.

Effective July 1, 2024, the minimum required salary for the executive, administrative and professional exemptions will increase to \$844 per week (or \$43,888 per year), and the highly compensated employee exemption’s minimum salary will increase to \$132,964 per year.

Then, effective January 1, 2025, the salary threshold for the executive, administrative and professional exemptions will further increase to \$1,128 per week (or \$58,656 per year), and the minimum salary for the highly compensated employee exemption will increase to \$151,164 per year.

Additional salary threshold increases will occur every three years thereafter – a key provision of the rule that remains the source of much debate and controversy.

Potential Legal Challenges and Next Steps

The Final Rule is expected to face legal challenges before it goes into effect on July 1, 2024, regarding, for example, whether the DOL has the authority to implement these types of changes (an issue currently being considered by the U.S. Supreme Court). Those challenges may lead to a delay in the Final Rule’s implementation. Nevertheless, employers are encouraged to consider auditing their pay practices now to determine compliance with the FLSA and relevant state laws, to identify any positions that would no longer meet the increased salary thresholds for exemption classification and to prepare

for the possibility that employees will need to be reclassified as non-exempt and paid overtime or paid more to qualify as exempt.

If you have any questions regarding the topics discussed in this article, please contact Cara J. Ottenweller at cottenweller@vedderprice.com, Carissa A. Townsend at ctownsend@vedderprice.com or any Vedder Price attorney with whom you have worked.

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