

New Rulemaking

Final Overtime Regs Raise Exempt Salary Threshold 65%

THE U.S. DEPARTMENT of Labor has issued a final rule increasing the federal salary threshold for overtime exemptions by 65%, with the full increase starting in 2025.

Currently, any worker who does not earn at least \$35,568 per year (\$684 per week) must be paid overtime if they work more than 40 hours in a week, regardless of if they are classified as a manager or professional. A salaried bona fide executive, administrative or professional employee must earn that amount or more if an employer wants to exempt them from federal overtime requirements.

TWO-PHASE INCREASE

The minimum exempt salary threshold will increase in two quick, successive phases from the current \$684 per week.

July 1: \$844 per week (\$43,888 per year)

Jan. 1, 2025: \$1,128 per week (\$58,656 per year)

After that, the threshold will be increased every three years, starting in 2028. The DOL will be required to provide 150 days' notice before making changes to the threshold.

White-collar exemption explained

The Fair Labor Standards Act requires that employees be paid overtime (typically a rate of 1.5 times their regular rate of pay) for

any hours they work in excess of 40 per week, unless the employee falls under one of three exemptions and is paid the minimum salary under the law.

The three exemptions have different qualifying responsibilities:

Executive exemption – These employees must manage a department or division, direct the work of at least two workers and have the authority to hire and fire.

Administrative exemption – Primary duties must be office or non-manual work related to the management or general business operations, and the employee's duties must include exercising independent judgment on significant issues.

Professional exemption – The employee's primary duty must be the performance of work requiring advanced knowledge, predominantly intellectual in character, and which requires the consistent exercise of discretion and judgment.

Highly compensated employee exemption

There is also an overtime exemption for certain highly compensated employees. The new salary threshold for this group of workers is rising from \$107,432 annual compensation to \$132,964 starting on July 1, and to \$151,164 on Jan. 1, 2025.

For the employee to qualify for this exemption:

- Their primary duty must include performing office or non-manual work; and
- They must customarily and regularly perform at least one of the exempt duties or responsibilities of an exempt executive, administrative or professional employee.

The fallout

If you have currently exempt employees on staff, you will have a choice to make come July 1: Either raise their salary to the new threshold of \$43,888 or higher, or pay them overtime for any hours they work in excess of 40 a week. Then you'll have to do it again to account for the even higher threshold come Jan. 1, 2025.

Also, your benefits package may differ for non-exempt and exempt workers, so you will want to review any affected employees' packages.

You should also plan for how you will communicate these changes to your affected workers.

Finally, although business groups have vowed to challenge the final rule in court, companies will need to ramp up their payroll systems to comply with the new rule. There is no guarantee that a court would stay the final rule until legal challenges are exhausted. ❖

