



FLSA Overtime Rule Changes: Start Preparing Now!

The Department of Labor has announced the “Final Rule” changes regarding exemption from overtime rules, and employers have until December 1 to be compliant. Being prepared now for tomorrow’s changes will enable your organization to quickly adapt and apply the new rules with ease.

Beginning December 1, 2016, the “white collar” exemption salary level will increase from \$455 per week (\$23,660 per year) to \$913 per week (\$47,476 per year) under the Fair Labor Standards Act (FLSA).

How to Prepare for the Final Rule

Employers have a little over six months to make the necessary changes to comply with the new requirements. Here are some recommendations for how to prepare.

1. **Review your job descriptions now** to determine whether they are still accurate and reflect the job being performed and the skills needed to perform the job. Review employees’ actual job duties to ensure that they still fall within the administrative, executive, professional, computer, or outside sales exemptions. If you would like to outsource your job descriptions review, consider working with our experienced HR Team. If you are an HR Knowledge current client, please email us at melissa@HRKnowledge.com for pricing.
2. **Review current employee classifications** to ensure that your “exempt” employees are properly classified; if they pass the salary basis and duties tests (two of the three tests used to determine eligibility for exemption), but are paid less than \$913 per week (the third, or salary-level test), then effective December 1, 2016, they must be reclassified as “non-exempt” and must be paid at least the minimum wage and overtime in accordance with federal and state law. Employees who are paid a salary of at least \$913 per week and perform job duties that fall within administrative, executive, professional, computer, or outside sales categories may be classified as “exempt.”
3. **Identify employees that meet the “exempt” classification** under the administrative, executive, professional, computer, or outside sales exemptions. Then determine which ones now make at least the current minimum of \$23,660, but less than the new minimum of \$47,476 per year. Determine how many hours they typically work per week and factor in any fluctuations in hours during peak periods. When evaluating your employees’ status, keep in mind that not every employee who receives a salary is automatically exempt — they must also perform exempt duties. You should assess an employee’s day-to-day duties to determine whether or not those duties fall within the FLSA’s exemption requirements. There will likely be some employees that fall into a “gray area,” whose status will not be easy to determine. In such cases, we suggest erring on the side of non-exempt status, keeping in mind that the employer bears the “burden of proof” that an employee is exempt from overtime.
4. **Analyze salaries of employees** who may be affected by the Final Rule and start budgeting for increased salaries (in cases where you increase salaries to meet the new threshold) and overtime costs. If you are one of our clients, note that ADP has added two new FLSA reports now available in Custom Reporting: the FLSA Salary Threshold Worksheet and the FLSA Cost Comparison Worksheet.
5. **Weigh the costs** of raising employees’ salaries to meet the proposed exemption criteria against what it would cost to reclassify them as non-exempt and pay them overtime when they work more than 40 hours a week. To help you better understand the potential labor costs of the changes, refer to ADP's



[online calculators](#). These simple tools are designed to help you assess the annual impact at the federal level of paying overtime versus raising salaries to meet the new salary threshold of \$47,476 per year.

6. **Consider the impact on internal pay equity.** Internal equity means employees are paid fairly when compared with other employees within your company. If you substantially increase some employees' pay, other employees may question why their pay isn't increasing. You may also want to consider state equal pay laws, such as in California and New York, which both recently passed legislation requiring employers to provide equal pay to men and women; Massachusetts is considering passing similar legislation soon.
7. **Consider implementing a Time and Attendance system** now to help manage overtime tracking and labor costs and to protect your bottom line. If you are a current client, please email us at sales@HRKnowledge.com for pricing.
8. **Update your current policies** and evaluate your timekeeping, overtime, telecommuting, mobile device, meal and rest breaks, training, and travel policies and practices.
9. **Consider your options.** Be aware that you have a wide range of options for responding to the change in salary level. Choose the method that works best for you and your staff. See [Plenty of Options with New Overtime Rule](#).

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