

e-Alert: DOL Issues Final Overtime Rule for Exempt Employees



Background

On September 24, 2019, the US Department of Labor (DOL) issued a new [final rule](#) on overtime exemptions to expand worker eligibility for overtime compensation under the Fair Labor Standards Act (FLSA).

While the rule raises the minimum salaries required for overtime exemptions, it does not make any changes to the DOL's "duties test" for executive, professional, and administrative employees. In order to be exempt under one of the categories, (1) an employee must be paid a salary (2) earn at least \$684 per week **and** (3) the employee's primary duties must satisfy the 'duties tests' defined by the DOL.

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Summary

- The final rule becomes effective on January 1, 2020.
- The final rule increases the standard salary level for the executive, administrative, and professional exemptions from \$455 to \$684 per week (\$35,568 per year). It also increases the “highly compensated employee” (HCE) salary level from \$100,000 to \$107,432 per year.
- In addition, the rule allows employers to use an employee’s nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the employee’s standard salary level.
- Finally, the rule also makes changes to the standard salary level for the exemption that applies to employees in the motion picture industry and some US territories.

Employer Next Steps

- Employers should begin to assess their workforce now to determine what changes they will need to make when this final rule goes into effect.
- The DOL intends to update the standard salary and highly compensated employee total annual compensation levels more regularly in the future.
- HR Knowledge will continue to monitor the final rule and will update employers as we learn more.

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