

## U.S. Department of Labor Announces New FLSA Salary Requirements for Exempt Employees

The U.S. Department of Labor (DOL) released its proposed rule today that would broaden federal overtime pay regulations by raising the minimum salary threshold to \$50,440 per year in order to qualify for an exemption from overtime under the Fair Labor Standards Act (FLSA).

To help understand what this means, below are answers to some questions you might have:

### Q. Why is the DOL making this change?

A. The proposed change was prompted by a memorandum President Obama issued in March 2014 which directed the DOL to “modernize and streamline” the regulations on exemptions from the FLSA’s minimum wage and overtime pay requirements. By way of this new rule, the DOL seeks to update the salary level test to ensure that the FLSA’s intended overtime protections are “fully implemented” and “to simplify the identification of overtime-eligible employees.”

### Q. What are the changes being proposed?

A. Under the current regulations, which were last updated in 2004, employees have to meet certain job duties-related tests and be paid at least \$455 per week—or \$23,660 annually—in order to be exempt from minimum wage and overtime requirements under the FLSA exemption for executive, administrative, professional, outside sales and computer employees. The proposed rule would make the

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following changes:

- Increase the current minimum salary requirement from \$23,660 to \$50,440 a year;
- Increase the highly compensated employee annual compensation level from \$100,000 annually to \$122,148 per year; and
- Automatically increase the salary and compensation levels on an annual basis.

**Q. How will this change impact employees and employers?**

**A.** The change is estimated to impact approximately 11 million employees who earn below the proposed salary threshold or who qualify for the highly compensated employee exemption. Of this group, almost 5 million white collar workers will become newly entitled to overtime compensation because of the increase in the minimum salary threshold to \$50,440 a year. Another 6 million highly compensated white collar employees will have their eligibility clarified because it will be determined solely by application of the new salary threshold of \$122,148 per year.

**Q. Did the DOL propose any changes to the “duties” tests of the FLSA?**

**A.** While the DOL did not propose any specific changes to the standard duties tests, it is seeking comments on whether the current duties tests are working as intended to screen out employees who are not bona fide "white collar" exempt employees.

**Q. What happens next?**

**A.** Under the DOL’s Notice for Proposed Rulemaking, the federal agency must accept comments from the public before implementing the change. Public comments can be submitted to the DOL in writing (or online at [www.regulations.gov](http://www.regulations.gov)) by referencing the rule’s Identification Number (RIN) 1235-AA11. Once the period of commentary has ended, the DOL will likely issue a final rule implementing the changes.

If you have additional questions about this proposed rule, please contact a member of the Labor and Employment Law Department at 302.571.4751.

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