

U.S. Department of Labor Issues New Overtime Rule

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The Other Shoe has Dropped.

The U.S. Department of Labor has just issued a long-awaited Final Rule^[1] that expands the right to overtime pay to over 4 million workers who are currently exempt.

Under this Final Rule, which is scheduled to take effect on December 1, 2016^[2], a currently-exempt “white collar employee”^[3] will become non-exempt if his/her salary is less than \$913/week^[4] (\$47,476/year). This threshold doubles the current salary threshold level of \$455/week (\$23,660/year).

Other key aspects of the Final Rule:

- The minimum threshold will be adjusted every three years (to maintain the level at the 40th percentile of full-time salaried workers in the lowest-wage Census region); and
- The threshold for the so-called Highly Compensated Employee Exemption will increase to \$134,004/year (from the current \$100,000 threshold).

Because the Final Rule and the law to which it relates are complicated, we encourage all employers to supplement the general information provided here by seeking legal advice regarding their specific circumstances.

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[1] <https://www.dol.gov/whd/overtime/final2016/>

[2] It is virtually certain that this Final Rule will face legal challenges and, accordingly, there is always the possibility that the effective date could be stayed or pushed back during such litigation.

[3] Sections 13(a)(1) and (17) of the Fair Labor Standards Act provide an exemption from both **minimum wage** and **overtime pay** for employees employed as bona fide “executive,” “administrative,” “professional,” “outside sales employees,” and certain “computer/IT” employees.” 29 U.S. Code §§ 213 (a) (1), (17). To qualify for these so-called “white collar” exemptions, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than the established salary threshold. *Id.*

[4] Notably, this threshold is lower than the \$970/week (\$50,440/year) threshold proposed last July.