

# Now & Next

## Labor & Employment Alert

April 24, 2024

### **Department of Labor increases salary thresholds for exempt employees**

By Michael J. Lingle

Although the Final Rule governing the overtime exemptions for white collar and highly compensated employees is likely to face judicial scrutiny, employers should prepare now to comply.



#### **What's the impact?**

- An initial increase will be effective July 1, 2024, followed by a full increase effective January 1, 2025.
- Regular updates to the thresholds will occur every three years.
- Employers must assess employees' salaries, salary basis, and job duties to determine exemptions and comply with the Final Rule.

Through a [final rule released April 23, 2024](#) (the Final Rule), the Department of Labor (the Department) will increase the standard salary threshold employers must pay employees to satisfy the requirements for the "white-collar" overtime exemptions under the Fair Labor Standards Act (FLSA). Effective January 1, 2025, the Final Rule increases the minimum salary threshold for those exemptions to \$1,128 on a weekly basis, or \$58,656 on an annual basis, up from \$684 per week, or

\$35,568 on an annual basis. An initial increase will be effective July 1, 2024, raising the weekly rate to \$844.

As a result of the increase, the Department approximates that 4 million workers will become entitled to overtime.

In addition, the Department will increase the annual compensation requirement for the “highly compensated employee” (HCE) exemption to \$151,164 from \$107,432, effective January 1, 2025. The HCE annual compensation amount will also be initially increased to \$132,964 as of July 1, 2024.

## **Which employees are exempt from FLSA overtime requirements?**

Exempt from the overtime requirements of the FLSA are employees who work in executive, administrative, and professional capacities, commonly referred to as the “white-collar” exemptions. To qualify for the exemptions, employees must meet a duties test and, in most cases, be paid a minimum standard salary for each workweek.

In September 2023, the Department proposed [increasing the annual salary threshold](#) for the white-collar exemptions to \$55,069, and \$143,988 for the highly compensated employee exemption. The proposed rule marked a significant increase over the last updates in 2019, which set the amount at \$684 per week, or \$35,568 on an annual basis. At that same time, the Department set the HCE exemption’s annual compensation requirement at \$107,432.

The Department’s proposed rule also included a new regulatory provision (to be codified at 29 C.F.R. § 541.607) providing for automatic updates to the standard salary levels for the white-collar exemptions as well as the total compensation requirement for the HCE exemption. The new provision would automatically result in updates to the standard salary levels for the white-collar exemptions and the total compensation requirement for the HCE exemption every three years, with 150 days’ notice of the updated amounts.

The Department received approximately 33,000 comments on the Proposed Rule.

## **DOL’s Final Rule sets higher thresholds**

The Final Rule largely adopts the Proposed Rule and provides for an initial increase effective July 1, 2024, with the full increase effective January 1, 2025. The Department updated the threshold amounts based on the most recent available earnings data used to set the thresholds.

For the white-collar exemptions, the initial increase effective July 1, 2024, will raise the weekly salary threshold to \$844. The HCE annual compensation threshold will increase to \$132,964

effective July 1, 2024. The full increase to \$1,128 per week (or \$58,656 annually) for the white-collar exemptions and \$151,164 for the HCE exemption will be effective January 1, 2025.

Regular updates to the thresholds will occur every three years, with the next update occurring on July 1, 2027.

## What's next?

While the initial increase is set to go into effect July 1, 2024, there is very little doubt that the Final Rule will face judicial scrutiny. In fact, a similar effort by the Department was judicially blocked after being challenged in court back in 2016. Therefore, while employers should prepare to comply with the Final Rule, they should keep in mind that the deadline for compliance may end up being far off in the future and should therefore stay tuned.

We will monitor and provide updates in the event the Final Rule is challenged.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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