

Engage PEO Client Alert:

Department of Labor Proposed New Overtime Rule

On March 7, 2019, the Department of Labor (DOL) formally proposed its much anticipated changes to the federal overtime regulations governing white collar workers. The DOL proposed an increase in the salary threshold for white collar exemptions to \$35,308 per year from \$23,660. This proposed rule is only the first step in a lengthy review process and has not yet been adopted as law.

Summary

If the proposed rule becomes law, this means that an exempt employee at a minimum must be paid \$679 per week, or alternatively, an employer may choose to reclassify the employee as “non-exempt” and pay overtime at one and one-half the regular hourly rate for all hours worked over 40 in a workweek.

Importantly, meeting the salary threshold does not automatically make an employee “exempt” from the overtime provisions of the Fair Labor Standards Act (FLSA); rather, there is also a primary job duties test that must be met.

Different types of exemptions exist, and each has its unique set of job requirements that are outlined in the FLSA. Most of these exemptions are specific to certain jobs or industries; however, for most businesses, exempt employees will usually fall into one of three exemption categories: executive, administrative and professional. Collectively, these are referred to as the “white collar exemptions.”

Each white collar exemption has its own unique set of duties requirements that must be met in addition to meeting the salary threshold. Employers must look at the actual duties that each employee performs to determine whether they meet the criteria, and their title or position does little to influence the outcome. Therefore, simply calling an employee a manager does not automatically qualify the employee as an exempt employee. Rather, to be considered exempt under the executive exemption (which is the most common exemption for managers), this employee would need to supervise two (2) or more full-time employees (or the equivalent) and have the authority to hire and terminate employees, or their suggestions and recommendations as to the hiring, firing or changing the status of other employees must be given particular weight. Otherwise, they would need to meet the requirements for one of the other exemptions to be considered exempt.

Please refer to our **recent HR Webinar on FLSA best practices** [linked HERE](#).

While the proposed rule is a long way from becoming a final rule, employers should periodically review their current pay structures to ensure compliance with the FLSA, as well as to start thinking about how they will treat impacted employees if the rule becomes law.

Engage will continue to monitor and assess this developing situation and provide updates. If you have any questions, please contact your HR Consultant.