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DOL Issues Final Rule Increasing Salary Threshold

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On April 23, 2024 the Department of Labor (DOL) issued final rules raising the minimum salary level required to maintain exempt status under the Fair Labor Standards Act (FLSA) to \$58,656 by January 1, 2025. The final rule increases the minimum salary level to \$844/week (\$43,888 annually) on July 1, 2024 and then to \$1,128/week (\$58,656 annually) on January 1, 2025. The DOL estimates that the proposed rule will entitle over 4 million formerly exempt workers to overtime pay.

Currently, in order to be considered exempt from the overtime requirements of the FLSA, an employee must be paid on a salary basis and receive a fixed minimum salary per week of at least \$684 (\$35,568 annually) that is not subject to deductions because of variations in the quality or quantity of work. The proposed regulations would dramatically increase the minimum salary level to \$1,059 per week (\$58,656.00 annually) in two stages. The first increase was based on the methodology used by the previous administration rule which set the salary at the 20th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census region as tracked by the Bureau of Labor Statistics (BLS) while the second increase utilizes the 35th percentile of the same region's weekly earnings.

In addition to being paid on a salary basis at or above the minimum salary level, exempt employees must also satisfy all of the duties tests associated with the various "white-collar" exemptions or meet the requirements of one of the duties tests and be a "highly compensated employee" (currently \$107,432 annually in total compensation) as defined by the DOL's regulations. While the final rule does not impact the duties tests, the rule increases the annual compensation required to be considered a highly compensated employee to \$132,964 beginning July 1, 2024 and \$151,164 beginning January 1, 2025.

The final rule also includes automatic updates to salary levels every three years to reflect current BLS earnings data starting July 7, 2027. Thereafter, the DOL will automatically update the minimum salary level to the 35th percentile of weekly earnings of full-time non-hourly workers in the lowest-wage Census region. Future updates to the minimum salary level for highly compensated employees will be set at to the 85th percentile of weekly earnings for non-hourly workers in the lowest-wage Census region.

The final rule goes into effect July 1, 2024. Employers need to plan now for the financial and administrative implications of the new rule.

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