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DOL releases final overtime rule: 8 things employers need to know

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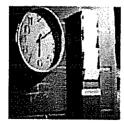
The wait is finally over. The DOL just released its revisions to the FLSA's white collar overtime exemption rule. Some parts of the rule are exactly what employers expected them to be — others are not.



Let's get right to what you need to know:

- **The deadline.** The final rule takes effect Dec. 1, 2016. That's the drop-dead date by which employers need to be in compliance. This gives employers a little over six months from the rule's release date until it kicks in — a much longer period to prepare than the 60 days the DOL had been hinting it would give employers.
- **The new salary threshold.** To be classified as exempt, employees now need to be paid at least $913 per week or $47,476 annually. This is an increase from the current threshold of $455 per week or $23,660 annually, but it's lower than the number the DOL had proposed increasing the threshold to ($50,440). The $47,476 figure represents the 40th percentile of earnings in the lowest wage census region — currently the South. Outside sales employees are still exempt from the salary requirements.
- **The threshold can climb every three years.** Rather than tying the threshold to inflation, as the DOL hinted it would do, the agency took another approach. Now the threshold will be reset to the 40th percentile of earnings in the lowest wage census region every three years. The four major census regions in the U.S. are the Northeast, Midwest, South and West.
- **Nondiscretionary bonuses count toward the threshold.** The final rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the new $47,476 salary level. Other than for highly compensated individuals, nondiscretionary bonuses haven't counted toward an individual's salary and, therefore, couldn't help employers push workers over the exemption threshold.
- **The duties tests won't change.** Many employers and business groups feared that, in addition to what everyone knew would be a big jump in the salary threshold, the DOL would alter the duties tests for the professional (a.k.a., white collar) exemptions. Specifically, early indicators were that the DOL would look to adopt a California-style rule in which employees would be required to spend more than 50% of their time performing exempt duties to be classified as exempt. But the DOL decided to leave the duties tests alone.

- **The highly compensated employee threshold will climb.** The total annual compensation requirement needed to exempt highly compensated employees subject to a minimal duties test will climb to $134,004 from $100,000 — equivalent to the 90th percentile of full-time salaried workers nationally. This is a good bit higher than the proposed threshold of $122,148. This threshold can also increase every three years.
- **Nonprofits and small businesses must comply.** The regulations do not make exceptions for not-for-profit organizations or small businesses.
- **Employers will get notice of threshold increases.** The DOL will give employers at least 150 days' notice prior to increasing the salary thresholds for standard employees, as well as highly compensated employees.

Print out: *For a compliance checklist you can pass along to your managers and supervisors, click here.*

Info: *To read the DOL's final rule in its entirety, click here.*