

OBSERVATIONS

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New Salary Threshold Qualifies More Employees For Overtime

October 1, 2019

On September 24, 2019, the U.S. Department of Labor announced a final rule regarding overtime which will expand the list of employees eligible for overtime.

Previously, “blue-collar” workers and professionals who earned less than \$23,000 a year would earn overtime pay (time and a half for hours worked over 40 per week). The new rule raises the salary threshold for professional to \$35,568.

To be exempt from overtime under the federal Fair Labor Standards Act (FLSA), employees must be paid a salary of at least the threshold amount and meet certain duties tests. If they are paid less or do not meet the tests, they must be paid 1 1/2 times their regular hourly rate for hours worked in excess of 40 in a workweek.

As such, when the rule goes into effect on January 1, 2020, employees who earn less than \$35,568 a year (\$684 per week) will now be entitled to time-and-a-half overtime pay. Generally these overtime rules are applicable regardless of title (i.e. manager or professional) or employment contract.

The new rule does provide for the use of certain irregular payment such as bonuses and commissions to satisfy up to 10 percent of the standard salary level.

To meet the tests associated with exemption, there are generally three classifications of exempt employers:

1. Executives – generally the primary duty must be managing the company or some department including supervising at least two employees and have a level of influence over personnel.
2. Administrative - generally performs managerial office or non-manual work with the ability to exercise judgment with respect to matters of significance.
3. Professional - generally performs work requiring advanced knowledge in a field

We encourage employers to review the new rules and update their policies to be sure they remain in compliance.