



What the New Overtime Rule Means for You

By now, if you have access to the internet there is no doubt that you have heard about the Department of Labor ruling that will increase the Fair Labor Standard Act (FLSA) minimum annual salary threshold required to make an employee exempt from overtime. This has been a long time coming and it's easy to confuse all the information that has been discussed over the past few years. Let's break down what this means for you.

When? The increase will take place in a two-step process:

- ✓ July 1, 2024 – the threshold will increase to \$43,888 annually
- ✓ January 1, 2025 – the threshold will increase to \$58,656 annually

Is it really going to happen this time? We've seen these false starts before. We do expect there to be some challenges to this ruling. However, given the momentum the regulation has to date and the announcement on Tuesday, it is unlikely that the ruling will be overturned. Even with challenges, we do not expect anything to halt the rule before the effective date of July 1, 2024.

Why? The new law has been advocated for the past few years to provide more economic security to the millions of people working long hours without overtime pay. It's also designed to provide pay equity to salaried managers who may likely be earning less than those they supervise once overtime is taken into consideration.

While many view this as an increase for salaried employees, the primary goal is to ensure overtime pay for lower paid employees. The [Department of Labor's \(DOL\) own blog](#) states, "One of the basic principles of the American workplace is that a hard day's work deserves a fair day's pay. Simply put, every worker's time has value. A cornerstone of that promise is the Fair Labor Standards Act's (FLSA) requirement that when most workers work more than 40 hours in a week, they get paid more. The DOL's new overtime regulation is restoring and extending this promise for millions of lower-paid salaried workers in the U.S."

The DOL is clear that the goal is to make more people eligible for overtime.



What to do now:

1) Make a list:

- ✓ Create a list of all your employees who currently earn between the current threshold of \$35,568 and the second step increase of \$58,656. For employees making less than \$43,888, you will need to determine fairly quickly whether they should be hourly non-exempt or be salaried exempt at the higher rate.
- ✓ To help figure this out, if they have been hourly, review what their actual hours with overtime have been. Their actual payroll with overtime may be at or above the new threshold and you may find you won't have any additional expense IF they qualify for all the requirements to be paid as salaried exempt.

2) Considerations if converting employees to hourly exempt:

- ✓ How are you going to track time?
- ✓ How are you going to ensure not to accumulate unplanned overtime? Be sure to consider how your staff works and expectations for answering emails or phone calls "after hours." This is all compensable time.
- ✓ How are you going to determine their hourly rate? Are you going to divide their salary by 40 hours or 37.5? What is your average work week?
- ✓ Will their benefits be impacted if they are re-classified as non-exempt?
- ✓ Will employee morale be affected? Some employees consider it a sign of seniority or having "made it" professionally once they are salaried. Adjusting them to non-exempt may have a negative impact on their morale, especially if their pay equivalent is the same but they have lost the flexibility that comes with being salaried.

3) Considerations if you are going to keep employees salaried exempt:

- ✓ It's a good time to review your job descriptions to make sure that they truly qualify as exempt. The exemptions have more requirements than just the salary minimum. These include job duties, level of responsibility and autonomy, the amount of supervision they receive, and the level of decision-making authority.
- ✓ If you are going to make salary adjustments, it's also a good time to review your salaries and compare them to the market to ensure that you are competitive.



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4) Determine how to give employees advance notice of the changes.

- ✓ In most states, employers may change the rate of pay as long as employees are informed of the change prior to working any hours at the new rate. The change cannot be retroactive. So, you will want to provide written notice to the employees who will have a rate and classification change. For employees converting to hourly non-exempt, you will also need to advise them of the policies that they will need to follow, such as how to track their time, maintaining meal and rest breaks, etc. **(Be sure to check your specific state laws on this.)**

Note: A separate overtime exemption applies to certain highly compensated employees. For these employees, DOL's rule will increase the minimum salary threshold to \$132,964 on July 1, and to \$151,164 on Jan. 1, 2025.

You can visit the Department of Labor's website for more information:

https://www.dol.gov/agencies/whd/overtime/rulemaking?_ga=2.22454715.1840787679.1713970762-1152141673.1707319406

[HR Affiliates](#) is also here to help.