

Department of Labor Releases New Overtime Rule

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Fair Labor Standards Act (FLSA) & Exempt Employees

The [Fair Labor Standards Act](#) (FLSA) is a federal labor law that requires employers to pay “non-exempt” employees overtime pay at 1.5X their hourly rate if they work more than 40 hours in a single workweek. However, the FLSA provides exceptions to this rule for “exempt” employees. Whether or not an employee is considered “exempt” under the FLSA depends on a number of different factors including:

- 1.) The type of industry the employee is working in;
- 2.) The job duties the employee performs; and
- 3.) The rate of pay the employee receives. *

*For a complete list of possible exemptions under the FLSA, visit the DOL’s website: <https://webapps.dol.gov/elaws/whd/flsa/screen75.asp>

The Department of Labor Raises Annual Salary Threshold

The U.S. Department of Labor (DOL) recently issued a [new rule](#) raising the salary threshold for employees to receive overtime pay under the FLSA. Starting January 1, 2020, employees making less than \$35,586 per year must be paid overtime at 1.5X their hourly rate if they work more than 40 hours in a single workweek. Previously, the annual salary threshold was set at \$23,660. Additionally, the DOL also raised the annual salary threshold to \$107,432 per year from \$100,000 for “highly compensated” executive employees.

The new rule also allows employers to compensate employees with “nondiscretionary bonuses and incentive payments” up to 10% of the salary threshold if the employees are paid these bonuses on an annual basis. Ultimately, employees may still be considered “exempt” while having salaries under the new threshold if they are receiving annual bonuses accounting for no more than 10% of their total salary.

What Does This Mean for Employers?

Employees that were previously considered exempt under the FLSA may now be eligible for overtime pay based on the new annual salary thresholds. Employers should re-examine their workforce and determine which employees are now eligible for overtime pay and consider whether or not to raise annual salaries to avoid paying for overtime.

If you have any questions or concerns regarding the new overtime rules, please contact me at adillingham@benefitreview.com

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