

FEDERAL COURT SETS ASIDE DOL RULE INCREASING SALARY THRESHOLD FOR OVERTIME EXEMPTION

November 21, 2024

On November 15, the U.S. District Court for the Eastern District of Texas set aside and vacated the Department of Labor (DOL)'s final rule increasing the minimum salary level at which executive, administrative or professional employees may become exempt from overtime pay (EAP Exemption) under the Fair Labor Standards Act (FLSA). This ruling applies nationwide.

The court [previously](#) stopped implementation of the DOL's rule temporarily for the State of Texas as an employer, but it allowed the rule to go into effect for all other public and private employers in the country. With this recent court decision, however, the DOL's rule is nullified on a nationwide basis.

The court held that all three stages of the DOL's rule exceeded its statutory authority under the FLSA because the DOL's rule impermissibly made salary, rather than an employee's duties, determinative of whether the employee should be exempt from overtime pay.

Importantly, the increase in the salary threshold establishing exemption from overtime pay, which was scheduled to become effective January 1, will no longer go into effect. As a result, employers need not adjust their payrolls to comply with this salary threshold increase.

FLSA Overtime Exemption

Under the FLSA, employers can classify employees as exempt from overtime pay if: (1) the employee is paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed; (2) the amount of salary paid meets a minimum specified amount (increased by the 2024 Rule); and (3) the employee's job duties primarily involve executive, administrative or professional duties as defined by the regulations to the FLSA. These are referred to as the "EAP Exemptions."

DOL's 2024 Rule

The 2024 Rule made three changes to the EAP Exemption's salary threshold, which would become effective at different times.

- On July 1, 2024, the 2024 Rule raised the salary level from \$684 per week to \$844 per week (or from \$35,568 annually to \$43,888 annually).
- On Jan. 1, 2025, the 2024 Rule was set to increase the salary level from \$844 per week to \$1,128 per week (or from \$43,888 annually to \$58,656 annually).
- The 2024 Rule would have automatically updated the salary threshold every three years based on contemporary earnings data.

The 2024 Rule also increased the "highly compensated employee" (HCE Exemption) salary threshold from \$107,432 annually to \$132,964 annually as of July 1, 2024, and to \$151,164 annually as of Jan. 1, 2025, with automatic updates every three years.

Court's Decision

In its decision, the court held that the 2024 Rule exceeded the DOL's authority because it effectively displaced the FLSA's duties test with a predominate—if not exclusive—salary-level test.

The court noted the EAP Exemption should only apply to those employees who, in good faith, perform actual executive, administrative or professional capacity *duties*. And while the DOL is permitted to set a minimum salary threshold, it can only do so if that salary serves as a reasonable proxy for an employee's exemption status. The DOL's new salary threshold was not a reasonable proxy in the court's view, in part, because of the drastic nature of this salary increase (a 65 percent increase from the salary level in effect before the 2024 Rule).

The court also held that the 2024 Rule's automatic index mechanism exceeded the DOL's authority because it is tied exclusively to a percentile of average salary levels for salaried employees, regardless of duties. Additionally, the automatic index mechanism evades notice and comment requirements mandated under the FLSA.

Although the HCE Exemption involves a less-stringent duties test, the court explicitly noted that its analysis applies equally to the legality of the DOL's changes to the HCE salary increases. As a result, the HCE increases are also nullified.

Next Steps

The court struck down the salary threshold increases for both July 1, 2024, and Jan. 1, 2025. As a result, employers are not required to adjust their payrolls to comply with the January 1 increase. Employers who have already adjusted pay or status for employees based on the July 1, 2024 increase should consult with counsel before unwinding those adjustments.

It is possible the DOL will appeal this decision to the 5th U.S. Circuit Court of Appeals. But until then, the 2024 Rule is invalid as a matter of law.

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