



Member Alert

20 November 2024

Federal Court Judge Enjoins DOL Rule on Increased Salary Threshold for Overtime Exemption

A federal court judge in the Eastern District of Texas has issued a decision granting a permanent nationwide injunction against enforcement of the U.S. Department of Labor’s overtime exemption rule for Executive, Administrative and Professional employees. This means that the DOL rule reverts back to the prior salary thresholds that were in effect before July 1, 2024, which set the EAP exemption at \$684 per week (or \$35,568 annually).

Employees are exempt from the Fair Labor Standards Act’s minimum wage and overtime protections if they are employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in the Department’s regulations. To fall within the EAP exemption, an employee generally must meet three tests:

- be paid a salary, meaning that they are paid a predetermined and fixed amount that is not subject to reduction because of variations in the quality or quantity of work performed;
- be paid at least a specified weekly salary level; and
- primarily perform executive, administrative, or professional duties, as provided in the Department’s regulations.

The Department’s regulations also provide an alternative exemption test for certain highly compensated employees who are paid a salary, earn above a higher total annual compensation level, and satisfy a minimal duties test.

The final rule increased the standard salary level and the highly compensated employee total annual compensation threshold on the rule’s effective date on July 1, 2024, and would have increased it further on January 1, 2025, when changes in the methodologies used to calculate these levels become applicable. The final rule also provided for future updates of these levels every three years beginning January 1, 2027 to reflect current earnings data.

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The court held that final rule exceeded the DOL's authority because it increased the minimum salary for the EAP exemption in a way that effectively replaced the duties-based inquiry (part two of the two-part test) required by the FLSA with solely a salary-level test. The decision stated that while the DOL may use a salary basis test to define the limits of the EAP exemption it cannot allow the salary requirements to effectively displace the duties test for the exemption.

In addition, the court overturned the DOL rule's requirement for an automatic indexing mechanism requiring further salary threshold increases every three years, holding that that provision also exceeded the DOL's statutory authority under the FLSA.

So, What Should Employers Do Now?

For the Executive, Administrative, and Professional Exemptions:

- The planned salary threshold increase to \$844 per week (or \$43,888 annually), effective July 1, 2024, is no longer valid.
- Future staged increases, including the January 1, 2025 threshold of \$1,218 per week and automatic updates starting July 1, 2027, are also void.
- Employers must revert to the prior salary threshold of \$684 per week (\$35,568 annually) for EAP exemptions.

For the Highly Compensated Employee Exemption:

- The planned salary threshold increase to \$132,964 effective July 1, 2024 is no longer valid.
- Future staged increases, including the January 1, 2025 threshold increase to \$151,164, is now void.
- Employers must revert to the prior salary threshold of \$107,432 per year for highly compensated employee exemptions.

The DOL might appeal the decision, but it is unlikely that the Trump Administration will defend the rule in court once it takes office.

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