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HEADS, WAGE AND HOUR & COMPLIANCE LITIGATION PRACTICE GROUP

Jim Coleman
Washington DC - Northern Virginia

Ellen Kearns
Boston, MA

EDITOR IN CHIEF

Robin Shea
Winston-Salem, NC

www.constangy.com
Toll free 866.843.9555

USDOL finalizes new increases in minimum salaries for white-collar exemptions

By Jim Coleman
Washington DC - Northern Virginia Office

and

Ellen Kearns
Boston Office

The U.S. Department of Labor has issued final regulations that increase the minimum salary level needed for the white-collar exemption and the annual compensation threshold needed to be considered a Highly Compensated Employee under the Fair Labor Standards Act. (The white-collar exemptions are also known as the Executive-Administrative-Professional, or "EAP," exemptions.)

In almost all cases, there are also job duties requirements that must be satisfied for the exemptions to apply, but those duties requirements are not affected by the changes resulting from this rulemaking proceeding.

Increase in compensation thresholds will be phased in

The DOL is implementing its minimum level thresholds in a manner different from what it specified in its original proposal, issued in 2023. The final regulations provide for initial updates to the standard salary level and the total annual compensation threshold. These initial updates will take effect on **July 1**. On that date,

- **The weekly salary threshold will increase from its current $684 per week to $844 per week.**
- **The annual compensation threshold for the Highly Compensated Employee exemption will increase from $107,432 to $132,964.**

The July 1 compensation levels will increase again on **January 1, 2025**:

- **The weekly salary threshold will increase to $1,128 per week, or $58,656 per year.**
- **The annual compensation threshold for a Highly Compensated Employee will increase to $151,164.**

The DOL set the minimum salary level at the 35th percentile of weekly earnings of full-time salaried workers in the lowest Census Region (South), and the total annual compensation threshold at the annualized weekly earnings of the 85th percentiles of full-time salaried workers nationally.

New mechanism for updating salary levels in the future

Future updates to the 2025 minimum salary level and HCE total annual compensation threshold will begin on July 1, 2027, and will continue every three years thereafter using the methodologies used for the January 1, 2025 increases. According to the DOL, "The new updating mechanism will allow for the timely, predictable, and efficient updating of the earnings threshold."

Effect of the DOL's final regulations

According to the DOL, approximately 1 million employees who earn $684 per week but less than $844 per week will be affected by the initial increase to $844. Approximately 3 million employees who earn at least $844 per week but less than the January 1, 2025, standard salary level of $1,128 per week will be affected by the "phase 2" increase.

The DOL also estimates that 292,900 employees who are currently exempt under the HCE test will be affected by the proposed increase in the HCE total annual compensation level.

The DOL estimates that that the total annualized direct employer costs over the first 10 years will be $803 million with a 7 percent discount rate.

No changes in U.S. territories or to the Duties Test

The DOL has dropped its 2023 proposals to apply these new standards to the U.S. territories subject to the federal minimum wage and to update the special salary levels for American Samoa and the motion picture industry.

Also, the final regulations do not include changes to the job duties criteria that apply to the exemptions. The DOL said it "favors keeping the current duties test and concludes that, paired with an appropriate salary level requirement, the test can appropriately distinguish bona fide [white-collar exempt] employees from nonexempt workers." Likewise, the final regulations do not change the current regulatory provision that allows employers to satisfy up to 10 percent of the minimum salary level with the payment of nondiscretionary bonuses, incentive compensation, or commissions.

What now?

Employer advocacy groups are likely to file legal challenges attempting to invalidate the regulations, as they did successfully in 2016. But in the absence of a court ruling that invalidates or enjoins the regulations, employers will need to either adjust current salaries upward where the new minimums are higher, or reclassify those employees to non-exempt status.

It is important to remember that the federal wage and hour laws do not preempt state and local wage and hour laws. There are states with overtime requirements that already have more stringent white-collar exemptions with minimum salary levels that are significantly higher than the current FLSA requirements. In some cases, the state minimum salary levels are already higher than what the DOL is now putting into place.

We will have further updates, and as always, feel free to direct questions to the Constangy lawyer of your choosing.