

U.S. Department of Labor Issues Final Overtime Rule

September 24, 2019

Today the United States Department of Labor announced a final rule regarding executive, administrative, and professional employees who are exempt from the overtime and minimum wage requirements of the Fair Labor Standards Act. The end result of these new rules is that an estimated 1.3 million American workers will become eligible for overtime pay under the FLSA.

According to the Acting U.S. Secretary of Labor Patrick Pizzella, “For the first time in over 15 years, America’s workers will have an update to overtime regulations that will put overtime pay into the pockets of more than a million working Americans,” and further stated, “this rule brings a commonsense approach that offers consistency and certainty for employers as well as clarity and prosperity for American workers.”

The final rule updates the earnings thresholds necessary to exempt executive, administrative and professional employees from the FLSA’s minimum wage and overtime pay requirements, and allows employers to count a portion of certain bonuses/commissions towards meeting the salary level. The Department of Labor indicates the new thresholds account for growth in employee earnings since the thresholds were last updated in 2004.

In the final rule, the Department is:

- raising the “standard salary level” from the currently enforced level of \$455 per week to \$684 per week (equivalent to \$35,568 per year for a full-year worker);
- raising the total annual compensation requirement for “highly compensated employees” from the currently enforced level of \$100,000 per year to \$107,432 per year;
- allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) paid at least annually to satisfy up to 10% of the standard salary level, in recognition of evolving pay practices; and
- revising the special salary levels for workers in U.S. territories and the motion picture industry.

The final rule does not, however, make any changes to the “duty tests” under the FLSA for determining the exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees.

The final rule will be effective on January 1, 2020.

If you have questions about this Legal Update or require assistance preparing for the administration of this rule, please contact [Joel Aziere](mailto:jaziere@buelowvetter.com) at jaziere@buelowvetter.com or 262-364-0250, or [Saveon Grenell](mailto:sgrenell@buelowvetter.com) at sgrenell@buelowvetter.com or 262-364-0313 or [your Buelow Vetter attorney](#).

This Legal Update is intended to provide information only on general compliance issues and should not be construed as legal advice. Please consult an attorney if you have any questions concerning the information discussed in this Legal Update.

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