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U.S. Department of Labor Implements Rules for Higher FLSA Exemption Thresholds

The United States Department of Labor (DOL) has issued a rule that will make more workers eligible to receive overtime pay under the Fair Labor Standards Act (FLSA). The new rule also increases the minimum annual salary required for workers to qualify for "white collar exemptions." Currently, the minimum salary that may be paid to an exempt employee is $684 per week, which annualizes to $35,568 per year. Under the new rule, this amount will first increase to $844 per week ($43,888 per year) on July 1, 2024, and then, effective on January 1, 2025, will increase again to $1,128 per week ($58,656 per year). When the rule takes effect, any employees paid below these threshold amounts will become eligible for overtime pay, regardless of their job duties. The white collar exemptions are also subject to a relatively strict "duties test" in addition to the minimum salary.

The DOL rule also increases the minimum salary for "highly compensated employees" (HCEs), who are exempt from overtime pay without as strict of a "duties test" as the white collar exemptions. The new rule increases the total annual compensation for HCEs from $107,432 to $132,964, effective July 1, 2024. The rule then increases the total annual compensation a second time, on January 1, 2025, to $151,164.

The July 1, 2024 changes are based on the same methodology that was used to increase these salary thresholds in 2019. These changes could, but are less likely to, draw legal challenges. The January 1, 2025 changes, by contrast, are based on a new methodology and are more likely to be the subject of legal challenges that could delay the implementation of the rule.

Employers should consult with counsel about preparing themselves and their employees for this impending change. Since many employers will have newly overtime-eligible employees, it is a very good time to audit and re-evaluate the exempt status of employees, consider salary increases in light of the new thresholds, and re-classify any employees who should be classified as non-exempt. These changes must be made carefully and explained effectively to employees. Employers should also analyze how potential salary increases or additional costs will affect their current operations and consider how the new federal rule may interact with state law exemptions.

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