

# CLIENT ALERTS

---

## DOL Proposes New Federal White-Collar Overtime Salary Threshold

### Client Alert

9.6.2023

The U.S. Department of Labor (“DOL”) released a new proposed rule (“New Proposed Rule”). The New Proposed Rule would significantly raise the minimum “white-collar” salary threshold that is one of the elements necessary to trigger the exemptions from the minimum wage and overtime requirements under the Fair Labor Standards Act (“FLSA”). The New Proposed Rule would raise the salary threshold from \$684 per week to \$1,059 per week, that is, from \$35,568 per year to \$55,068 per year. The yearly salary threshold for highly compensated employees also will increase from \$107,432 per year to \$143,988 per year. In addition, the DOL would implement automatic updates to those thresholds every three years.

Meeting the salary threshold is one of the necessary elements for an employee to be exempt from overtime. The New Proposed Rule does not alter the duties test or other requirements previously used to determine whether employees qualify under the DOL’s “white-collar” employee exemptions.

According to the DOL, the New Proposed Rule would result in millions of currently exempt employees now being eligible for overtime. Specifically, approximately 300,000 additional manufacturing workers, 300,000 retail workers, 180,000 hospitality and leisure workers, and 600,000 employees in the health care and social services sector currently exempt, would now be eligible for overtime. In total, according to the DOL, overtime protections would be extended to approximately 3.6 million workers now considered exempt.

The likelihood of the New Proposed Rule becoming law is still unpredictable. A similar 2016 proposed rule attempted to raise the threshold to \$913 per week during the Obama Administration but never came to fruition after it was subject to a permanent injunction and then formally rescinded. Thus, it is possible that the New Proposed Rule may not become law or ever take effect.

### Related People

Blaine Veldhuis  
Shareholder

### Related Services

Employee Benefits  
ERISA and Employee Benefits  
Litigation  
Labor and Employment

## CLIENT ALERTS

---

If the New Proposed Rule is finalized (following a public comment period), it is anticipated that the New Proposed Rule could become law as soon as mid-2024, but can be delayed or extended to late 2024 or early 2025.

Employers should audit whether there are any current salaried workers that earn more than \$684 per week, but less than \$1,059 per week. That group of employees could be subject to the New Proposed Rule, should it take effect. And whether or not the New Rule takes effect, employers should regularly review whether employees that they classify as exempt meet all the requirements of an exemption, since misclassification can carry serious economic consequences.

Please feel free to contact the author of this client alert or your Butzel attorney for more information.

**Blaine Veldhuis**

248.258.2924

[veldhuis@butzel.com](mailto:veldhuis@butzel.com)