



## Alerts

### Overtime Expansion Over? Texas District Court Issues Nationwide Injunction of Expanded Federal Overtime Rules

November 23, 2016

*Employment Practices Alert*

#### What Happened?

A federal judge has blocked the U.S. Department of Labor (DOL) from implementing new regulations under the Fair Labor Standards Act (FLSA) that [expand overtime eligibility](#) to 4.2 million salaried workers. The [preliminary injunction](#) issued yesterday found that the expanded overtime eligibility rules were contrary to the FLSA and Congressional intent.

The rules were supposed to become effective December 1, 2016. They grant overtime eligibility to millions of salaried white-collar employees whose salaries were not above a threshold of \$921 per week (\$47,892 annually), but whose duties otherwise would have made them exempt from overtime. With the injunction, the new regulations are on hold until the court issues a final decision.

#### Why did the Court decide this way?

The court held that the DOL's exceeded its regulatory authority by increasing the salary threshold. According to the court, the higher threshold creates a "de facto salary-only test." In other words, it categorically excludes from the exemptions a large number of employees that Congress intended to be exempt based on their duties without regard to their salary. The court did not rule on the automatic update because of its overall finding that the entire revised regulation is unlawful.

#### What happens next?

Compliance with the regulations' overtime expansion has been at the forefront of the minds of employers, human resources professionals, and their attorneys for nearly seventeen months, and we have written about these [changes numerous](#) times as they have developed.

**While this regulation will not take effect next week, employers should take note that a preliminary injunction is *not* a ruling on the merits of the case—that part of the challenge continues at a later date, and the rules could be reinstated either by this court or on appeal.**

#### Service Areas

Employee Benefits

Labor & Employment



However, given the [imminent change of administrations and the resulting uncertainty](#), it is difficult to predict what is next for this revised regulation. We will keep you apprised of any and all changes as we learn them.

### **What do I do now?**

The uncertainty surrounding the future of the revised regulations means that maintaining the status quo is the best option. If employers have already made changes in anticipation of the revised regulations, they are free to keep those changes in place. There are numerous reasons to choose this option, including preserving employee morale and avoiding potentially costly adjustments of plans and systems. Additionally, employers who have begun tracking the hours of employees exempt under the current rules may continue to track hours. On the other hand, if employers have not yet made changes to employee classifications and exemptions, they may continue to operate under the current rules until a final decision is rendered on the injunction and/or the revised regulations.

Regardless of which decision is made, employers should be sure to inform their employees of the injunction, what the employer is doing in response to it, and why that action is being taken.