

Court Blocks DOL's Increase to Minimum Salary Threshold for FLSA Exemption, Overtime Requirements

Alert

11.18.2024

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On November 15, 2024, the U.S. District Court for the Eastern District of Texas vacated the Department of Labor's (DOL) April 26, 2024, final rule increasing the minimum salary threshold for exemptions to the Fair Labor Standards Act's (FLSA) minimum wage and overtime requirements. The 2024 final rule's first increase to the minimum salary threshold went into effect July 1, 2024. Now that the court has vacated the final rule, the minimum salary thresholds will return to their pre-July 1, 2024, salary levels: \$684 per week/\$35,568 annually for the executive, administrative, and professional (EAP) employee exemption, and \$107,432 annually for the highly compensated employee (HCE) exemption.

The FLSA requires covered employers to pay employees a minimum wage and, for employees who work more than 40 hours in a week, overtime premium pay of at least 1.5 times the employee's regular rate of pay. However, the FLSA exempts from its minimum wage and overtime requirements "any employee engaged in a bona fide executive, administrative, or professional capacity." Generally speaking, to meet this EAP exemption:

- The employee must be paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed (the salary basis test).
- The amount of salary paid must meet a minimum specified amount (the salary level test).
- The employee's job duties must primarily involve EAP duties as defined in the FLSA regulations (the duties test).

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The FLSA regulations also provide a less-stringent duties test for EAP employees who perform office or non-manual work and who are paid more than a higher salary threshold. Appropriately, this is referred to as the "highly-compensated employee exemption."

The 2024 final rule provided several increases to the salary thresholds for both the EAP exemption and the HCE exemption. The first increase went into effect July 1, 2024. The EAP threshold increased to \$43,888, and the HCE threshold increased to \$132,964. The second increase would have gone into effect January 1, 2025. Finally, the 2024 final rule provided for automatic increases to the salary thresholds every three years, based on then up-to-date wage data, starting July 1, 2027.

On November 15, 2024, the court held the 2024 final rule exceeded the DOL's authority, and vacated it. In other words, the 2024 final rule's initial increases to the minimum salary levels to qualify for the exemptions were in effect from July 1, 2024, through November 15, 2024. As the court noted, approximately one million employees' FLSA classification changed while the 2024 final rule was in effect. Now that the rule has been vacated, employers should again review their workforces to evaluate which employees currently qualify as exempt under the EAP and HCE exemptions.

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