

## New Overtime Rule to Impact 1.3 Million Workers

By: George Morrison  
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On September 24, 2019, the U.S. Department of Labor (DOL) issued its final overtime rule regarding the salary amount that employees must be paid in order to meet the salary basis requirements for the exemptions from overtime pay. The DOL stated that the new rules would make 1.3 million American workers eligible for overtime compensation.

The new rule, which will take effect on January 1, 2020, raises the minimum salary threshold from \$455 per workweek to \$684 per workweek. Employers will need to adjust exempt employees' salaries who are currently earning less than \$684 per week if the employer wishes to maintain the employees' exempt status. The rule also raises the salary threshold for the highly compensated employee exemption from \$100,000 to \$107,432 per year and permits employers to use nondiscretionary bonuses and incentive payments paid at least annually to satisfy up to 10% of the standard salary level, in recognition of evolving pay practices.

In 2016, the DOL issued final rules regarding the salary requirements for exempt employees as well. The 2016 rules increased the salary level to \$913 per week, and the highly compensated exemption was set at \$134,004 per year. The 2016 increases in the compensation level would have affected over 4 million workers. However, Judge Amos L. Mazzant from the United States District Court for the Eastern District of Texas held the 2016 rules to be invalid. The court stated that the 2016 rules would essentially "supplant[] an analysis of an employee's job duties." For more background on the DOL's 2016 invalidated rule, see our alert, *White Collar Overtime Regulations Temporarily Blocked*.

As employers enter their fourth quarter and finalize budgets for 2020, they should immediately begin to review the compensation packages of exempt employees who earn less than the new thresholds on a case-by-case basis. Employers should determine whether to raise the employees' salaries to meet the new requirements or convert employees to hourly staff, while keeping in mind a need to develop processes and procedures to throttle overtime pay costs.

For questions or guidance on this recent development or other employment law matters, please contact George Morrison ([morrisong@whiteandwilliams.com](mailto:morrisong@whiteandwilliams.com); 610.782.4911) or any member of our Labor and Employment Group.

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