

U.S. Department of Labor announces Final Rules defining overtime exemptions under FLSA

Below is a link to the U.S. Department of Labor announcement of the Final Rules defining the overtime exemptions for Executive, Administrative, Professional, Outside Sale and Computer Employees under the Fair Labor Standards Act (the federal wage and hour laws). This link has further links to various other Department of Labor explanations of this new regulation, which was issued May 18, 2016.

Key Provisions of the Final Rule The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, the Final Rule:

- Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; \$47,476 annually for a full-year worker);
- Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004); and
- Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.

Additionally, the Final Rule amends the salary basis test to allow employers to use non-discretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level. **The effective date of the final rule is December 1, 2016.** The initial increases to the standard salary level (from \$455 to \$913 per week) and HCE total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020. If you have any questions, feel free to call or email any of the attorneys in our Employment Law Group.

<https://www.dol.gov/whd/overtime/final2016/>