



HUMAN RESOURCES BULLETIN

October 2, 2019

Final Wage & Hour Rules

Last week, the U.S. Department of Labor (DOL) announced a final rule increasing the salary threshold for employees to qualify for the “white-collar” exemptions from overtime pay. This new rule is expected to make 1.3 million more workers eligible to collect pay of one and one-half times their regular rate of pay for any hours over 40 worked during a workweek.


Overview

Under the Fair Labor Standards Act (FLSA), workers must be paid overtime unless they are classified as “exempt”. To be exempt, employees must meet two conditions: (1) the employee must perform work that is executive, administrative, or professional in nature (also called the “duties test”) and (2) the employee must earn above the minimum salary threshold (also known as the “salary test”).



FINAL CHANGES

The new rule is set to go into effect on **January 1, 2020** with the following changes:

- The “**standard salary level**” has been increased from \$455 to \$684 per week (from \$23,660 to \$35,568 a year). Anyone making less than that cannot be classified as exempt.
 - The total annual compensation level required for individuals in the “**highly compensated employee**” exemption (subject to a minimum duties test) has been increased from \$100,000 to \$107,432.
 - The new ruling allows the use of **nondiscretionary bonuses and incentive payments** (including commissions) that are paid at least annually to comprise up to 10% of the standard salary level.
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Noticeably absent is any reference to changes in the **duties tests**. Although there have been no changes to this part of the FLSA, employers should take this opportunity to review job descriptions and determine if the exemption requirements are met. If they are not, this is a timely opportunity to update a job's exemption status without drawing attention to the potential misclassification issue.

Besides a review of job descriptions, employers are also advised to **forecast the financial impact** of their affected employees on the organizational budget in order to assess possible courses of action. Employers should look at budgets, analyze possible job restructuring and determine whether to pay overtime or possibly increase the employee's pay to cross the salary threshold. Employers should also develop an **employee communication strategy** based off of any strategic decisions. Targeted communications should be sent to those employees who either (a) are being converted to a non-exempt status (eligible for overtime) or (b) receiving a salary increase.

Compliance Webinar

On **October, 17, 2019 at 2:00 pm EDT**, Acrisure Compliance Solutions will be conducting a one-hour webinar on these final rules to prepare employers for the upcoming effective date of January 1, 2020.

