



CLIENT ALERT

DEPARTMENT OF LABOR ANNOUNCES NEW SALARY THRESHOLDS FOR EXEMPT EMPLOYEES

On Tuesday, September 24, 2019, the United States Department of Labor (“DOL”) issued its final rule that increases the minimum salary employees must be paid to qualify as exempt from the Fair Labor Standards Act’s (“FLSA”) overtime requirements. The key changes are:

- Raising the current minimum salary threshold of \$455 per week (\$23,660 annually) to \$684 per week (\$35,568 annually);
- Allowing the inclusion of certain non-discretionary bonuses and incentive payments – such as commissions – that are paid at least annually to count towards up to 10% of the minimum salary threshold; and
- Updating the total annual compensation requirement for the “highly compensated employee” test, from \$100,000 to \$107,432.

In order for an employee to be exempt, an employer must still demonstrate that the employee meets the applicable job duties test (i.e., administrative, executive, professional). The final rule, which may be accessed on [the DOL’s website](#), will take effect on January 1, 2020.

Employers should be mindful of state and local laws that exceed the salary threshold of the DOL’s final rule. For example, New York, California, and Alaska employers are largely unaffected by the change because those states require a higher minimum salary threshold than the DOL’s final rule.

As a reminder, the minimum weekly and corresponding yearly salary thresholds for the “administrative” or “executive” overtime exemptions in New York are currently as follows:

<p>NYC employers with 11 or more employees:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Minimum Weekly Salary</td> <td style="width: 50%;">Minimum Yearly Salary</td> </tr> <tr> <td style="text-align: center;">\$1,125.00</td> <td style="text-align: center;">\$58,500.00</td> </tr> </table>	Minimum Weekly Salary	Minimum Yearly Salary	\$1,125.00	\$58,500.00	<p>NYC Employers with 10 or fewer employees:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Minimum Weekly Salary</td> <td style="width: 50%;">Minimum Yearly Salary</td> </tr> <tr> <td style="text-align: center;">\$1,012.50</td> <td style="text-align: center;">\$52,560.00</td> </tr> </table>	Minimum Weekly Salary	Minimum Yearly Salary	\$1,012.50	\$52,560.00
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<p>Nassau / Suffolk / Westchester – All Employers:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Minimum Weekly Salary</td> <td style="width: 50%;">Minimum Yearly Salary</td> </tr> <tr> <td style="text-align: center;">\$900.00</td> <td style="text-align: center;">\$46,800.00</td> </tr> </table>	Minimum Weekly Salary	Minimum Yearly Salary	\$900.00	\$46,800.00	<p>Rest of State (Outside NYC, Nassau, Suffolk & Westchester)- All Employers:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Minimum Weekly Salary</td> <td style="width: 50%;">Minimum Yearly Salary</td> </tr> <tr> <td style="text-align: center;">\$832.00</td> <td style="text-align: center;">\$43,264.00</td> </tr> </table>	Minimum Weekly Salary	Minimum Yearly Salary	\$832.00	\$43,264.00
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The DOL estimates that the final rule will make nearly 1.3 million workers across the country newly eligible for overtime pay. If you have operations outside New York State, it is important to check local salary thresholds. Employers should prepare themselves and consult with their employment counsel to determine whether changes must be made prior to January 1, 2020.

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If you have questions or would like additional information, please contact EGS's Employment Law Practice Group Leader, Amanda M. Fugazy at afugazy@egsllp.com or the primary EGS attorney with whom you work.

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