

Electronic Alert

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The U.S. Department of Labor Announces Proposed Changes to the FLSA

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On September 8, 2023, the United States Department of Labor (DOL) published a proposed rule that would change the Fair Labor Standards Act (FLSA) regulations for exempt executive, administrative, and professional employees.

Significant proposed revisions include:

- An increase to the standard salary level from \$684 per week (\$35,568 per year) to \$1,059 per week (\$55,068 per year).
- Increasing the highly compensated employee compensation threshold from \$107,432 per year to \$143,988 per year.
- Automatically updating the earning thresholds every three years.

The FLSA generally requires covered employers to pay employees minimum wage and overtime when an employee works more than 40 hours in a workweek. The FLSA provides categories of employees who are exempt from its regulations, including those who are “employed in a bona fide executive, administrative, or professional capacity.” Specific criteria must be met in order for an employer to classify employees as exempt under the FLSA. In particular, an employee (1) must be paid on a salary basis, meaning their salary is not subject to reduction based on the amount or quality of work performed; (2) must be paid a salary that meets the minimum specified amount; and (3) must have job duties that are primarily executive, administrative, or professional in nature, as defined in detail by the FLSA and DOL regulations and guidance.

The DOL’s proposed rulemaking is open for public comment until November 7, 2023. Many may remember the proposed increase to the exempt salary thresholds from 2016 that was blocked by the courts. Employers can expect to see similar legal challenges to this current rulemaking. In the meantime, employers should evaluate the potential impact of the proposed changes on their organization and be prepared to address the rules if they are finalized.

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