

DOL Proposes Increases in Exempt Employee Salary and Annual Compensation Requirements

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On August 30, 2023, the U.S. Department of Labor (DOL) announced a Notice of Proposed Rulemaking to update and revise the salary requirements under the Fair Labor Standards Act (FLSA) for exemptions from minimum wage and overtime pay requirements for employees subject to the executive, administrative, or professional exemptions, otherwise known as the “white collar” exemptions. This change would also affect computer employees classified as exempt and who receive a salary.

The DOL’s proposal would raise the current minimum weekly salary threshold for exempt employees to \$1,059 per week, which amounts to \$55,068 annually, from the current salary requirement of \$684 per week, which amounts to \$35,568 annually. The proposal would also increase the annual compensation requirement for the highly-compensated exemption to \$143,988 from the current requirement of \$107,432. Finally, the DOL is proposing a new mechanism to automatically update the standard salary requirement and the highly-compensated total annual compensation threshold every three years based on earnings data. The proposals are not final, and the Notice of Proposed Rulemaking must still go through a notice-and-comment period in which the public will be able to provide feedback on the changes noticed by the DOL.

While the proposed changes to the salary and compensation thresholds and the automatic update for these requirements may change following public comments, employers should be aware of the current proposals and how they would affect the classification of employees currently under the executive, administrative, or professional exemptions or the highly-compensated exemption. Changes in the salary and annual compensation thresholds may require employers to review employee classifications, even if job duties have not changed, to ensure the employee still qualifies as exempt from minimum wage and overtime pay requirements. Moreover, the proposed automatic update would require employers to routinely review employee compensation and classification to ensure they remain consistent with the currently applicable requirements under the FLSA.

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Topics

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