



USDOL Proposes Significant Increase In The Minimum Salary An Employee Must Earn To Be Exempt From Overtime

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In one of the most potentially sweeping changes to the Fair Labor Standards Act (FLSA) regulations in over a decade, the U.S. Department of Labor (USDOL) has proposed an increase in the minimum salary for employees to qualify for the executive, administrative or professional overtime exemptions from \$455 per week up to \$970 per week, with annual increases tied either to the Consumer Price Index or the Current Population Survey (a monthly survey of earnings from the U.S. Census Bureau). That is, even if an employee qualifies for one of these overtime exemptions based on his or her duties, the employee will nonetheless be eligible for overtime pay unless the employee makes at least \$970 per week (\$50,440 per year). The amount of money an employee needs to make to meet the FLSA's salary basis requirement for the executive, administrative and professional exemptions is determined by regulations, not statute, so the USDOL does not need congressional approval to make these changes. The proposed increase is subject to modification before becoming a final rule. The USDOL is also proposing to increase the minimum salary an employee must earn to meet the highly compensated exemption, from \$100,000 to \$122,000, and is accepting comments on whether to change the duties test for exempt employees. Public comment may be submitted **here**. Even though these proposed changes are not final, most observers expect a significant increase in the salary for exempt employees sometime in 2016. These proposed changes come on the heels of phased in increases in the minimum wage in Chicago starting at \$10 per

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hour, and a proposed minimum wage of \$15 per hour in New York, as well as the implementation of paid sick leave laws in California and Massachusetts. Employers should prepare for these upcoming changes and increased wage and benefits costs by reviewing their wage scales, handbook policies and conducting wage audits to ensure that employees are properly classified as exempt.