



i'll see your minimum wage and raise you

MSK Client Alert

March 14, 2019

Late last week, the U.S. Department of Labor ("DOL") issued its proposed overtime rule, proposing changes to the federal minimum salary requirements needed to fall within the exemptions to the Fair Labor Standards Act's (the "FLSA") minimum wage and overtime pay regulations.

It is important to note that the proposed changes would apply at the federal level, with many states already having salary requirements that exceed the proposed changes for exemption. For those of you in California, for example, the state's minimum wage and overtime regulations require that employees make at least twice the state's minimum wage for full-time employment, or a total of approximately \$47,000 - \$50,000 per year (depending on the applicable minimum wage based on employer size), to be exempt from the state's overtime provisions. California also has its own duties test. Exempt employees in California must satisfy both the state and federal tests to qualify as exempt.

White Collar Exemptions

As a quick refresher, employees that fall within the FLSA's executive, administrative, professional, outside sales, or certain computer related employees exemptions (collectively, the "white collar exemptions") are exempt from federal overtime pay requirements. To be exempt, employees must (1) be paid a predetermined and fixed salary that is not subject to reduction based on the quality or quantity of work performed, (2) the employee's weekly/annual salary must meet a specified amount, and (3) the job duties of the employee must fit within one of the white collar exemptions.

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