

US DOL Issues Final Rule on Salary Threshold for Exempt Status

Labor & Employment Law Update

By Sara Zorich on September 24, 2019

In a follow up to our recent post, the US Department of Labor (DOL) has now issued its final rule regarding the salary thresholds for exempt status. The final rule will go into effect on January 1, 2020 and establishes the following rules:

1. Salary exempt employees must earn at least \$684/week (equivalent to \$35,568 per year for a full-year worker) *(which is slightly more than was proposed in March 2019 due to inflation/updated data but less than was proposed during the Obama Era)*;
2. Employers can use non-discretionary bonuses and incentive payments that are paid at least annually to satisfy up to 10% of the salary basis for the white collar exemptions (if this is utilized the minimum salary paid can be no less than \$615.60/week) *(however, it should be noted that (1) if the employee does not earn the bonus the employer will need to pay the amount anyway no later than one week from the end of the 52 week period or the salary basis will not be met and (2) if the employee leaves employment before the bonus is paid/earned the employer will have to pay the pro-rata share of the bonus at termination to ensure the minimum salary threshold was met)*;
3. In order to qualify for the “highly compensated exemption” employees must earn at least \$107,432/year (formerly \$100,000/year) and must be paid at least \$684/week *(however, Illinois employers should note this is not applicable in Illinois because Illinois did not adopt the highly compensated exemption)*; and
4. Revises the special salary level for the motion picture industry and US territories.

We anticipate the new rule will receive legal challenge. However, litigation is unpredictable, so employers should begin preparing now to ensure they are ready for January 1, 2020.