

Attention Employers: Court Vacates New Department of Labor Overtime Rule

On November 15, 2024, U.S. District Judge Sean D. Jordan of the Eastern District of Texas vacated a 2024 United States Department of Labor (“DOL”) rule, which had raised salary thresholds for overtime exemptions as of July 2024 and which mandated future increases to the salary threshold to maintain exempt status beginning in January 2025.

The DOL’s rule, as we previously discussed in our [prior client alert here](#), raised the salary threshold for overtime exemptions under the Fair Labor Standards Act (“FLSA”) for *bona fide* executive, administrative and professional employees, known collectively as the EAP exemption. As a reminder, qualifying for the EAP exemption requires that in order for an employee to be classified as exempt from overtime compensation, such employee maintain certain job duties (*i.e.*, exercising independent judgment and discretion) and be paid on an annual salary basis at or above the established minimum salary threshold. Since 2019, the salary threshold has been \$684 per week (\$35,568 annualized) to qualify for EAP exemption under the FLSA. The DOL’s 2024 rule increased the weekly salary threshold to \$844 (\$43,888 annualized) as of July 1, 2024 and would have further increased that threshold to \$1,128 per week (\$58,656 annualized) as of January 1, 2025 had the Court not vacated this rule with its recent decision.

In its rulemaking process, the DOL had estimated that one million employees who had previously potentially been classified as exempt from overtime pay requirements under the FLSA would be deemed non-exempt based on the DOL’s rule change, and that another three million employees would have had their exempt status changed to non-exempt by the January 2025 increase in salary threshold had the rule not been invalidated by the District Court’s ruling. The DOL’s rule would have also implemented further increases to the salary thresholds every three years thereafter based upon applicable earnings data provided by the government.

The recent court decision was handed down after the State of Texas and several business groups challenged the efficacy of the DOL’s 2024 rule. In striking down the rule, the court noted that the DOL had raised salary thresholds only five years ago, and contrary to the basis for the prior changes, there had been no corresponding change to the federal minimum wage rate since those changes were implemented. The Court further found that the increased salary thresholds would have rendered too many employees non-exempt who otherwise meet the job duties criteria of the EAP exemption, thus essentially allowing the higher salary threshold to override the duties-driven purpose behind the EAP exemption.

While district court decisions of this type, *i.e.*, those overruling and invalidating newly promulgated administrative rules, are almost always appealed to the Circuit Court of Appeals with jurisdiction over the district court in question, it is unclear whether the DOL will appeal this new district court ruling in light of the imminent change in administrations. And any appeal which might be noticed in the next several weeks may in fact be withdrawn once the Trump Administration takes office in January 2025. In fact, it is not beyond the realm of possibility that the newly empowered Trump Administration might propose new rules of its own regarding overtime exemption thresholds under the FLSA or in such other areas as tip compensation, etc.

Employers in several populous states with their own rules with respect to overtime exemptions will be unaffected by any changes in the DOL minimum salary thresholds for the EAP exemption due to the fact that in those particular jurisdictions, minimum salary threshold levels far exceed the \$684 per week that has now been restored by the Court’s decision (or even the thresholds which were put in place by the new DOL rule which has just been invalidated). For example, California law requires that employees earn at least double the state minimum wage for full-time employment (currently \$1,280.00/week; increasing to \$1,320.00/week as of January 1, 2025) in order to qualify for the executive, administrative or professional overtime exemptions (in addition to meeting the job duties requirements). Similarly, under New York law, employees



working in an executive or administrative capacity must meet increased salary thresholds (currently \$1,200.00/week in New York City, Westchester and Long Island and \$1,124.20 in the rest of the state; increasing to \$1,237.50 in New York City, Westchester and Long Island and \$1,161.65 in the rest of New York State as of January 1, 2025) in order to qualify as exempt from overtime pay entitlements under New York Labor Law.

What Should Employers Do Next?

From a practical standpoint, fluctuations in the minimum salary threshold for overtime exemptions highlight the risks associated with paying employees at exactly the minimum salary threshold. Employers should be mindful that doing so could impact an employee's exemption status and leave employers vulnerable to potential misclassification claims if salaries are not adjusted appropriately. In making determinations about an employee's classification as exempt or nonexempt, employers should therefore consider each employee's current expectations, job duties, hours and pay to determine whether the employee's classification as exempt or nonexempt should be revisited and potentially altered. Employers, especially multi-state employers, should review all applicable federal and state wage and hour laws to ensure that their pay practices are consistent with current applicable federal, state and local law.

Key Contacts

Our Labor & Employment Law team is available to assist employers in navigating wage and hour classification issues and compliance with federal, state and local labor laws, including evaluating workforce exemption status and overtime policies.

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