



Department of Labor Proposes Raising FLSA Salary Exempt Level to \$55,068

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The U.S. Department of Labor (DOL) announced a highly anticipated proposed rule on August 30 amending the salary basis test for white collar exemptions under the Fair Labor Standards Act (FLSA). The proposed rule would raise the minimum salary threshold to qualify for most white collar exemptions to \$1,059 per week (or \$55,068 per year). This is a significant increase from the existing salary threshold of \$684 per week (or \$35,568 per year). Additionally, the proposed rule would increase the salary threshold to qualify for the highly compensated employee exemption to \$143,988 per year – up from \$107,432 per year.

White collar exempt employees are often those that work in a “bona fide executive, administrative or professional capacity.” White collar exempt employees can be paid on a salary basis and are not subject to overtime or minimum wage requirements. Generally, to qualify for these exemptions, employees must:

- be paid on a salary basis;
- be paid a salary above a certain amount (proposed to increase to \$55,068 per year); and
- perform exempt duties as their primary duties.

The DOL’s proposed rule only affects the salary threshold and does not affect the primary duties test. The DOL believes this rule will disqualify approximately 3 million workers from exempt status and force them to be subject to overtime and minimum wage requirements.

The DOL will publish the proposed rule shortly in the Federal Register. Once it is published, the public will have 60 days to submit input on the potential changes. It is worth noting, however, that the DOL previously finalized a rule in 2016 that proposed raising the salary basis test to \$47,476 per year, but a federal court in Texas issued a temporary injunction prior to the rule’s effective date,

finding that the DOL lacked sufficient authority to implement the rule. It is likely that this proposed rule will face similar legal challenges.

Frost Brown Todd's [Wage & Hour](#) team will keep you posted on developments to the proposed rule.

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