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Authors:

[Catherine F. Burgett](#)

[Brett A. Hession](#)

DOL Raises the Salaried Exempt Threshold

For the second time since 2020, the U.S. Department of Labor (DOL) is set to raise the salary threshold for salaried exempt employees. As of July 1, 2024, the threshold will increase from \$35,568 to \$43,888. The threshold is scheduled to increase *again* on January 1, 2025, to \$58,656. After January 1, 2025, the threshold will update every three years based on a formula derived from wage data.

Background

The Fair Labor Standards Act (FLSA) requires that workers in the United States receive at least minimum wage for all hours worked and time and half for all hours worked over 40 hours in a workweek. But the FLSA has numerous exceptions and exemptions to its rules. Perhaps the best-known and most utilized exemptions are the so-called “white collar” overtime exemptions. The white-collar exemptions provide that bona fide executive, administrative, professional and outside sales employees, as well as some computer employees, need not be paid overtime for hours worked over 40 if the employees have certain job duties and are paid on an all-but-guaranteed salary basis. The salary basis threshold has been the source of repeated litigation since 2016. It was last raised in 2020 from \$23,660 to \$35,568.

Along with the increase to the salary threshold for the “white collar” exemptions, the DOL’s regulations would raise the salary threshold for the “highly compensated” employee overtime exemption to \$132,964.

Legal Challenges Ahead

These increases are almost certain to face challenges in federal court, including (potentially) the issue, hinted at by the U.S. Supreme Court, of whether the DOL’s use of a salary threshold requirement for the white-collar exemptions is even proper under

the FLSA.

What's Next?

While the legal challenges play out, employers should review their salaried, overtime-exempt positions to ensure the following:

- Each such position is correctly classified as exempt from overtime pay based on the actual job duties performed in the position.
- If correctly classified as salaried exempt based on the job duties, are the positions correctly paid on a salary basis?
- If correctly paid on a salary basis, is it appropriate to raise the salary associated with the position to the new salary threshold as of July 1, 2024?
- If the positions are not appropriate to be raised to the new salary threshold, employers should make plans to convert the positions to hourly, overtime-eligible positions.

While the DOL touts this increase as overwhelmingly positive for a large number of workers, history has taught us that employees often prefer the predictability of a salary versus the sometimes marginal benefit of overtime pay. As such, employers should approach any reclassifications from salaried exempt to overtime eligible carefully and thoughtfully.

FBT will continue to monitor the DOL's new rule and will send updates as they are available. If you have any questions about these changes and how they may impact your business, please contact the authors or any attorney with Frost Brown Todd's [Labor and Employment](#) practice group.

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