

NEW OVERTIME RULE MORE EMPLOYER-FRIENDLY THAN LAST ATTEMPT

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Today, the U.S. Department of Labor finally announced its long-awaited changes to the regulations regarding overtime compensation. Effective January 1, 2020, the minimum salary required for most exemptions under the Fair Labor Standards Act will rise from \$455 per week to \$684 per week (or from \$23,660 to \$35,568 annualized). The minimum salary for the “highly compensated employee” exemption will rise from \$100,000 to \$107,432 per year.

Additionally, employers will be permitted to use nondiscretionary bonuses and other incentive payments (including commissions) to satisfy up to ten percent (10%) of the required minimum salary, as long as that compensation is paid at least annually. And if an employee fails to earn sufficient incentive compensation in a 52-week period to maintain “exempt” status, the employer may make up the shortfall (up to 10% of the minimum required salary) in a one-time payment in the first pay period after the end of the 52-week period.

The “final rule” announced today is more employer-friendly than the Department’s last attempt to update the overtime regulations, which was enjoined by a federal court in 2016 before the changes could take effect. The final rule issued in 2016 would have raised the minimum salaries for exemption considerably higher, making an estimated 4 million workers eligible for overtime pay, and it would have provided for automatic increases in the salary thresholds going forward. The final rule announced today is predicted to make 1.3 million workers overtime-eligible and does not provide for any automatic adjustments in the future.

Bryan Cave Leighton Paisner LLP has a team of knowledgeable lawyers and other professionals prepared to help employers address employee classification and compensation. If you or your organization would like more information on this or any other employment issue, please contact an attorney in the Employment and Labor practice group.

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