

How to Evaluate Potential Impact of the Proposed Overtime Exemption Rule

On August 30, 2023, the U.S. Department of Labor released a proposed rule that would increase the minimum salary requirement for the administrative, professional (including the salaried computer professional), and executive exemptions from \$684 per week (\$35,568 annually) to \$1,059 per week (\$55,068 annually). Employers would continue to be allowed to use nondiscretionary bonuses, incentive payments, and commissions to satisfy up to 10 percent of the minimum salary requirement for the administrative, professional, and executive exemptions, as long as these forms of compensation are paid at least annually. The proposed rule would also increase the total annual compensation requirement for the “highly compensated employee” exemption to \$143,988 (at least \$1,059 must be paid on a weekly salary basis). While no action is required at this time, this flowchart can be used to help you evaluate the potential impact of the proposed rule, if it were to become final.



* Under the FLSA, non-exempt employees must be paid at least the minimum wage for each hour worked and overtime whenever they work more than 40 hours in a workweek. To be classified as exempt from these requirements, an employee must generally: (1) be paid on a salary basis; (2) meet the minimum salary requirement; and (3) satisfy certain duties tests. **Note:** Exempt computer professional employees may also be paid hourly, if it is at least \$27.63 per hour, which wouldn't change under the proposed rule. The outside sales employee exemption is not impacted by the proposed rule.

