

U.S. Department of Labor Announces Proposed Rules Designating More Workers as Non-Exempt from Overtime

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Today, the U.S. Department of Labor announced a proposal to “Define and Delimit the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees” that would “restore and extend overtime protections” to millions of salaried workers if finalized. The proposal is currently publicly available on its website: <https://www.dol.gov/newsroom/releases/whd/whd20230830>.

The Department of Labor’s proposed rule would, among other things:

- Increase the FLSA regulations’ standard salary level from \$684 per week (\$35,568 per year) to \$1,059 per week (\$55,068 per year).
- Automatically update earnings thresholds every three years to keep pace with changes in worker salaries.
- Increase the total annual compensation requirement for highly compensated employees from \$107,432 to \$143,988 per year in order to designate such workers as exempt.
- Revising definitions of the executive, administrative, and professional exemptions from overtime.
- Restore overtime protections for workers in U.S. territories.

After the proposed rule is published in the Federal Register, individuals will be able to submit comments for a period of time to be determined by the Department. Employers, if so inclined, should submit comments opposing the new rules to potentially avoid these coverage exemptions. However, in the meantime, it is critical that employers correctly classify workers as exempt or non-exempt. The DOL takes no prisoners and demands double payments of unpaid overtime to all misclassified workers for three years prior to a complaint and fines employers. I have recently identified many expensive mistakes by several sophisticated employers.

As always, please reach out to me if you have any questions.