

Paying the Big Bucks: Proposed Overtime Rules

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BUSINESSES WILL SOON FIND THEMSELVES reevaluating many of their salaried employees for — that's right — overtime pay. The Department of Labor ("DOL") has just recently proposed new rules relating to the Fair Labor Standards Act ("FLSA") and overtime pay.

Under the FLSA, current regulations require employers to pay time-and-a-half for hours worked over 40 within a workweek, but provide for an exemption for executive, administrative, and professional employees where they meet certain requirements relating to their primary job duties, and are paid a salary of at least \$23,660 per year. The new rules would nearly double this salary floor to approximately \$50,440 per year. (This is the projected figure for the final rule.)

In practice, this will mean that many otherwise-exempt employees who are paid less than \$50,440 per year would become subject to requirements of overtime pay, regardless of what types of duties they are performing or their prior classification

as "salaried." Businesses will need to either pay for the additional hours at a premium rate, or reduce hours and hire more employees where needed. Businesses will also need to track the hours worked by their employees who no longer qualify as exempt. Employees who previously had the flexibility to work from home, respond to emails after work hours, or get small tasks out of the way before the work day starts will now need to track this time, and will need to be paid for it.

Many businesses are considering changing their practices and rethinking how they use their workforce as alternatives to paying overtime. Some may require their employees to maintain a strict 40-hour workweek and will simply hire additional part-time workers. Others, in switching an employee to hourly pay, could lawfully choose to offer a lower base pay to offset anticipated overtime costs.

This proposed rule is still subject to a comment period before any changes are finalized. In the meantime, employers should begin to consider how many of their employees may fall into this category and how to budget for either increased salaries or increased overtime hours.

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