

WILENTZ

—ATTORNEYS AT LAW—

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Employment Law Update: Part of the Overtime Exemption Test Will Change on January 1, 2020

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Overtime exemption has always been a three part test:

1. Does the employee meet a “duties” test to be exempt from overtime? The main types of jobs (**depending on the duties**) that are exempt are: executive, administrative, professional and outside sales.
2. The employee receives the same amount of base salary in each check (there are very rare exceptions).
3. The employee receives a minimal amount in salary, currently the amount is \$455 per week or \$23,660 per year. **On January 1, 2020, the minimum amount that must be paid to an employee to be able to assert that they are exempt from overtime (if they meet #1 and #2 above), will increase to \$684 per week or \$35,568 per year.**

Note that highly compensated employees do not have to meet every part of the duties test. A highly compensated employee will be exempt from overtime “if the worker’s primary duty is performing office/non-manual labor and the worker “customarily and regularly performs any one or more of the exempt duties” of an executive, administrative, professional employee or outside salesperson. Currently, to be defined as “highly compensated” an employee must earn at least \$100,000 per year. **On January 1, 2020, the threshold to be classified as a highly compensated employee will increase to \$107,432 per year.**

If you have any questions regarding the new regulations, contact any member of the Wilentz Employment Law Team at 732-352-9858.

Attorney

- Tracy Armstrong