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The Cost of an Overtime Exemption for Employees May Be Increasing

09/25/23

Before Labor Day, the U.S. Department of Labor (“DOL”) unveiled its [Proposed Exemption Rule](#) (“PER”), which will revise the Fair Labor Standards Act’s overtime exemption salary threshold for executive, administrative, and professional employees.

The Proposed Changes:

1. Increase the minimum salary from \$684 per week (\$35,568 per year) to \$1,059 per week (\$55,068 per year).
2. Increase the Highly Compensated Employee exemption amount from \$107,432 per year to \$143,988 per year.
3. A triennial automatic update to these thresholds.
4. Additional updates to salary levels in U.S. territories and for employees in the motion picture industry.

The [Duties Test](#) for each exemption remains the same.

The next step in the process is a 60-day public comment period for the PER. The public comment period will end on November 7, 2023. The final rule will not be published until several months after the conclusion of the comment period. Then, if the new rules are not challenged by Congress or the courts, the effective date would be approximately 60-90 days later.

Takeaway: Employers should consider providing comments regarding the changes. Simultaneously, employers should begin thinking about the steps needed to comply if the changes become effective. Employers with questions can contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) Team.

Attorney

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Practice

- Employment Law