



## New White Collar Worker Salary Rule **Millions of Workers to Become Eligible for Overtime**

Last month, the U.S. Department of Labor (US DOL) announced a long-awaited [final rule](#) amending the "white collar" exemption to the Fair Labor Standards Act ([FLSA](#)).

Beginning December 1, 2016, the minimum salary required for administrative, executive and professional employees to be classified as exempt from overtime will be set at the 40<sup>th</sup> percentile of earnings for full-time salaried workers in the lowest wage Census Region. According to the US DOL, that salary threshold will be \$913 per week (over twice the current federal threshold of \$455 per week, though New York currently has a higher state minimum), or \$47,476 per year. Any employee making less than that salary must be paid overtime if he/she works more than 40 hours in a week. Employers may fulfill up to 10 percent of a white collar employee's salary threshold through non-discretionary bonuses, incentive pay, or commissions that are paid at least quarterly.

Every three years, starting in 2020, the white collar exemption salary threshold will be updated to reflect the then-current 40<sup>th</sup> percentile of earnings for full-time salaried workers in the lowest wage Census Region.

The final rule does not change the duties test component of the white collar exemption (i.e. whether or not the employee primarily performs [administrative](#), [executive](#) or [professional](#) tasks, as defined by US DOL regulations). An employer can only claim the white collar exemption from paying overtime for an employee if that employee meets both the salary level and duties tests.

Employers can see answers to frequently asked questions [here](#). Prior to the December 1, 2016 effective date, they should consider consulting with counsel on strategies they can implement to comply with the final rule.

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