



White Collar Exemption Update **DOL Seeking Comments on Potential Revised Rule**

The U.S. Department of Labor ([DOL](#)) is seeking public comments via a Request for Information (RFI) published in the [Federal Register](#) about issues related to the so-called "White Collar Exemption." This includes the salary-level test, duties test, as well as automatic updates to the salary-level test. All comments must be submitted to DOL by September 25, 2017.

A court injunction prevented the Obama Administration's [2016 amendment](#) to the White Collar Exemption from taking effect pending the resolution of a legal challenge to the rule. That rule would increase the salary threshold for the White Collar Exemption to the 40th percentile of earnings for full-time salaried workers in the lowest wage Census Region (updated every three years beginning in 2020). It would not change any of the duties tests used to determine if an employee primarily performs [administrative](#), [executive](#), or [professional](#) tasks. An employer can only exempt an employee from overtime under the White Collar Exemption if the employee meets both the salary and duties test requirements.

According to the RFI, the Trump Administration's DOL will not advocate for the specific salary level set by the 2016 rule (which was to have become \$913 per week on December 1, 2016, compared to the current federal threshold of \$455 per week), but instead plans to draw on the comments it receives to issue a revised proposed rule.

New York employers should note that the state's White Collar Exemption for executive and administrative employees was [increased](#) to between \$727.50 per week and \$825 per week on December 31, 2016, depending on the employer's location and number of employees. There will be further incremental increases over the next several years towards \$1,125 per week in New York City, Nassau, Suffolk and Westchester counties, and towards \$937.50 per week in the rest of the state.

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